Laws and Resolutions

OF THE

STATE OF MONTANA

PASSED BY THE

Thirty-ninth Legislative Assembly

In Regular Session

Held at Helena, the Seat of Government of Said State.
Commencing January 4, 1965, and
Ending March 4, 1965.

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3

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Certificate of Authentication

State of Montana
Department of
Secretary of State
} ss.

I, Frank Murray, Secretary of State of the State of Montana, do hereby certify that by virtue of the authority vested in me by law I have prepared for publication and caused to be printed a copy of all laws, resolutions and appropriation measures passed by the Thirty-ninth Legislative Assembly of the State of Montana, at the Thirty-ninth regular Session commencing January 4, 1965, and concluding March 4, 1965; that I have caused to be compared the said printed laws, resolutions and appropriation measures with true copies of the original manuscript thereof now on file in my office, and that the following are true, full and correct copies thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Montana, at Helena, the Seat of Government, this seventh day of June, 1965.

Frank Murray

Secretary of State.

OFFICERS AND MEMBERS

Thirty-ninth Legislative Assembly of the State of Montana

1965

TIM BABCOCK, Governor.

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Eugene H. Mahoney, President Pro Tem of the Senate
George S. McKenna, President Pro Tem (Ad Interim)

Members of the Senate

NAME	RESIDENCE	COUNTY	POLITICS
*Anderson, Helen F.	Wibaux	Wibaux	Republican
Balgord, O. P.	Lavina	Golden Valley	Republican
Beck, Ralph J.	818 Milwaukee Ave., Deer Lodge	Powell	Republican
*Beley, Ward H.	Harlowton	Wheatland	Democrat
*Bentz, C. C.	Ekalaka	Carter	Republican
*Bovey, Charles A.	Box 1653, Great Falls	Cascade	Democrat
*Breen, Jerry W.	Choteau	Teton	Republican
Brenner, J. S.	Grant	Beaverhead	Republican
Brownfield, Ben	123 S. Taylor, Glendive	Dawson	Republican
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*Cotton, Robert S.	Box 27, Glasgow	Valley	Democrat
*Cumming, Hugh C.	Drummond	Granite	Democrat
Davis, Warren H.	418 Chestnut St., Anaconda	Deer Lodge	Democrat
DeWolfe, Percy	Babb	Glacier	Democrat
*Dussault, Edward T.	Mullan Road, Missoula	Missoula	Democrat
Edwards, Lochiel	Malta	Phillips	Republican
*Gerard, Sumner	Ennis	Madison	Republican
*Goodwin, Lester C.	Townsend	Broadwater	Democrat
Graham, Carroll A.	Lodge Grass	Big Horn	Democrat
*Groff, Wm. A. "Bill"	Victor	Ravalli	Democrat
*Hafferman, William F.	314 E. Ninth St., Libby	Lincoln	Democrat
Harris, Dr. W. E.	Box 545, Livingston	Park	Democrat
Hauk, Mike	Terry	Prairie	Democrat
Hibbard, Henry S.	618 Madison, Helena	Lewis and Clark	Republican
*Hilling, Henry B.	1214 Ninth St. W., Billings	Yellowstone	Republican
Holt, Steve A., Jr.	Broadus	Powder River	Republican
*Huntley, Gene	Baker	Fallon	Democrat
James, David F.	Joplin	Liberty	Democrat
*Jensen, Arthur N.	Superior	Mineral	Democrat
Kafka, Lada J.	Shambo Route, Havre	Hill	Democrat
*Keller, Webster	Fishtail	Stillwater	Democrat
Killenbeck, Roy	Scobey	Daniels	Republican
Lehrkind, Carl, Jr.	610 S. Willson, Bozeman	Gallatin	Republican
MacDonald, John J.	Jordan	Garfield	Democrat
Mackay, William R.	Roscoe	Carbon	Republican
*Mahoney, Eugene H.	Thompson Falls	Sanders	Democrat
Manning, Dave M.	Hysham	Treasure	Democrat
Mathers, W. L. "Bill"	314 S. Merriam, Miles City	Custer	Republican
McDonnell, A. Ronald	Big Timber	Sweet Grass	Republican
*McGowan, Gordon	Highwood	Chouteau	Democrat
*McKenna, George S.	Stanford	Judith Basin	Democrat
*Melcher, John	Forsyth	Rosebud	Democrat
*Michels, Lloyd J.	Medicine Lake	Sheridan	Democrat
*Moberly, Waldo Y.	485 Judy Ave., Shelby	Toole	Republican
*Moritz, Earl	1024 W. Evelyn, Lewistown	Fergus	Republican
Nees, Stanley	Poplar	Roosevelt	Democrat
Nixon, Richard	Hogeland	Blaine	Democrat
O'Neill, Dr. R. T.	813 Third West, Roundup	Musselshell	Democrat
*Reardon, Frank D.	30 E. Iron St., Butte	Silver Bow	Democrat
*Rieder, Arnold	Boulder	Jefferson	Democrat
Rostad, Carl	Martinsdale	Meagher	Republican
*Siderius, George	Somers Stage, Kalispell	Flathead	Democrat
*Thiessen, C. R.	Lambert	Richland	Democrat
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Turnage, Jean A.	Polson	Lake	Republican
Ullom, Maurice J.	Conrad	Pondera	Republican

* Holdover Senator.

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House of Representatives

NAME	RESIDENCE	COUNTY	POLITICS
Aasheim, Magnus	Antelope	Sheridan	Democrat
Asbjornson J. O. "Boots"	Winifred	Fergus	Republican
Atkins, Arthur	516 Mineral Ave., Libby	Lincoln	Democrat
Bailey, Manson H., Jr.	Glasgow	Valley	Democrat
Bardanouve, Francis	Harlem	Blaine	Democrat
Bashor, Leonard G.	Kevin	Toole	Democrat
Bollinger, Gordon E.	122 Third Ave. N., Glasgow	Valley	Democrat
Boughton, Bert D.	Jordan	Garfield	Republican
Brenner, Paul E.	Cardwell	Jefferson	Democrat
Broeder, Fred O., Jr.	Route 4, Kalispell	Flathead	Republican
Casey, Loran	107 Dawson, Wolf Point	Roosevelt	Republican
Cerovski, Charles	207 Crystal Drive, Lewistown	Fergus	Democrat
Christiansen, E. W. "Bill"	Hardin	Big Horn	Democrat
Cregg, William G.	125 Sentinel, Missoula	Missoula	Democrat
Crum, Forrest H.	1147 Broadwater Ave., Billings	Yellowstone	Republican
Cummings, Everett D.	Hobson	Judith Basin	Democrat
Delano, John L.	420 S. Wallace, Helena	Lewis and Clark	Republican
Deschamps, Robert L., Jr.	Route 4, Missoula	Missoula	Democrat
Dye, Robert F.	622 S. Grand, Bozeman	Gallatin	Republican
East, Vic	Forsyth	Rosebud	Republican
Egan, Eugene C.	Valier	Pondera	Democrat
Eklund, Elmer A.	Ryegate	Golden Valley	Democrat
Eskildsen, Leslie "Joe"	Malta	Phillips	Democrat
Falkenstern, Arnold H.	Terry	Prairie	Republican
Felt, James R.	303 Parkhill Drive, Billings	Yellowstone	Republican
Fischer, C. R.	1201 W. Park Ave., Anaconda	Deer Lodge	Democrat
Flynn, Elmer	Route 2, Missoula	Missoula	Democrat
Garrison, W. F. "Bill"	Glen	Madison	Republican
Gerke, Harold E.	202 Mountain View, Billings	Yellowstone	Democrat
Gilfeather, P. J.	2816 Fourth Ave. S. Great Falls	Cascade	Democrat
Gill, Henry L.	Thompson Falls	Sanders	Democrat
Gilligan, Peter J.	3020 Fourth Ave. S., Great Falls	Cascade	Democrat
Gunderson, Jack	Power	Cascade	Democrat
Haines, Tom	15 Martha's Court, Missoula	Missoula	Republican
Hall, John C.	1020 Third Ave. N., Great Falls	Cascade	Democrat
Hanks, Virgil	Gallatin Gateway	Gallatin	Democrat
Harper, Warren W., Sr.	717 N. Second, Livingston	Park	Democrat
Healy, John E. "Jack"	624 W. Granite St., Butte	Silver Bow	Democrat
Holtz, Ronald W.	Floweree	Cascade	Democrat
James Mrs. R. H. (Isabel)	Grant	Beaverhead	Republican
Jenkins, L. V., Jr.	Hysham	Treasure	Republican
Jensen, Millo	Ronan	Lake	Republican
Johnson, Edward A.	710 W. Sixth St., Anaconda	Deer Lodge	Democrat
Judge, Thomas L.	417 Dearborn, Helena	Lewis and Clark	Democrat
Laas, Walter	Chester	Liberty	Democrat
Leuthold, John H.	Molt	Stillwater	Republican
Lewis, Joe H.	Browning	Glacier	Democrat
Loman, Ray M.	Ronan	Lake	Republican
Lombardi, Jerry V.	947 Waukesha, Butte	Silver Bow	Democrat
Lucas, James P.	500 S. Strevell, Miles City	Custer	Republican
Lund, Arthur E.	Scobey	Daniels	Republican
MacCalman, Malcolm	203 Fifth St., Deer Lodge	Powell	Republican
Mather, William S.	1005 Second St. W., Roundup	Musselshell	Republican
McDonald, John K.	Belt	Cascade	Democrat
McNamara, Jack R.	916 Stuart, Helena	Lewis and Clark	Democrat
McNamer, William R.	235 Yellowstone Ave., Billings	Yellowstone	Republican
McOmber, W. Gordon	Fairfield	Teton	Democrat
Meccage, A. L.	Baker	Fallon	Democrat
Nefzger, Donald Deane	Vida	McCone	Democrat
Nelson, Carl	Hall	Granite	Republican
Nichols, Norris	Stevensville	Ravalli	Republican
Nutting, Richard A.	Silesia	Carbon	Republican
Obstarczyk, John J.	827 Second Ave.N.W.,Great Falls	Cascade	Democrat
O'Hair, Allyn W.	Box 955, Livingston	Park	Democrat
O'Leary, Barry J.	2009 Gorham Park Dr., Billings	Yellowstone	Democrat
Pierce, John H.	1312 Parkhill Dr., Billings	Yellowstone	Republican
Prevost, Robert C.	Lambert	Richland	Democrat
Raundal, Robert S. "Bob"	Winnett	Petroleum	Democrat
Rehberg, Jack D.	2317 Rehberg Lane, Billings	Yellowstone	Republican
Rygg, Sterling	Whitefish	Flathead	Republican
Sartz, Leonard L.	Wibaux	Wibaux	Democrat
Schepens, Fred W.	217 5th Highland Park, Glendive	Dawson	Democrat
Scherf, Margaret	737 First Ave. W., Kalispell	Flathead	Democrat
Schye, Elmer	White Sulphur Springs	Meagher	Republican
Selstad, Tom A.	Horizon Addition, Great Falls	Cascade	Republican
Sheehy, John C.	1041 Poly Drive, Billings	Yellowstone	Democrat
Shugrue, Stephen J.	980 N. Main St., Butte	Silver Bow	Democrat
Slaby, Cyril "Cy"	612 Fifteenth St., Havre	Hill	Democrat
Smiley, Richard D.	Route 2, Box 149, Bozeman	Gallatin	Republican
Smith, Carl M.	Olive	Powder River	Republican
Spilde, Gene	Big Timber	Sweet Grass	Republican

HeinOnline -- 1965 vi 1965

HOUSE OF REPRESENTATIVES—(continued)

NAME	RESIDENCE	COUNTY	POLITICS
Stranahan, C. G	Fort Benton	Chouteau	Democrat
Sullivan, Kermit C	Superior	Mineral	Democrat
Swanz, E. A	Harlowton	Wheatland	Republican
Tooke, Richard D	Ekalaka	Carter	Republican
Tracy, Thomas P	2425 Nettie St., Butte	Silver Bow	Democrat
Twedt, Gordon R	Rudyard	Hill	Democrat
Ulmer, Walter J	121 S. Merriam, Miles City	Custer	Republican
Watt, Robert D	440 South Ave. E., Missoula	Missoula	Democrat
Wayrynen, Ray J	133 E. Broadway St., Butte	Silver Bow	Democrat
Williams, William G. "Bill"	Toston	Broadwater	Republican
Willits, John B	1620 Fifth Ave. N., Great Falls	Cascade	Democrat
Woodard, Hubert E	127 Ave. C, P. O. Box 660, Billings	Yellowstone	Republican
Zimmer, William H	Olney	Flathead	Democrat

CONTENTS

Chap.	Senate Bill	House Bill	Title	Page
1		1	An Act Relating to the Organization and Procedures of the Legislative Assembly; Prescribing the Duties and Compensation of Legislative Employees; Repealing Sections 43-211, 43-212, 43-213, 43-214, 43-302, 43-303, 43-305 Through 43-309 and 43-312 Through 43-317, R. C. M. 1947.	1
2		33	An Act Amending Sections 11-2010, 11-3523 and 11-1901, R. C. M. 1947, to Allow Fire Districts and Incorporated Municipalities to Enter Mutual Aid Agreements With Certain Public and Private Agencies.	4
3		18	An Act Changing the Name of 'The University of Montana' to 'The Montana University System', 'Montana State University' to 'University of Montana', 'Montana State College' to 'Montana State University', 'Montana School of Mines' to 'Montana College of Mineral Science and Technology', 'Western Montana College of Education' to 'Western Montana College', and 'Eastern Montana College of Education' to 'Eastern Montana College'; Amending Sections 75-401, 75-402, R. C. M. 1947; Repealing Section 75-402.1 R. C. M. 1947.	7
4		6	An Act Amending Section 84-4907.1, R. C. M. 1947, as Amended by Section 1, Chapter 227, of the Laws of 1957, Relating to Veterans' Bonus Exemption From Income Tax Law; Providing That All Payments Made Under World War I Bonus Law, Korean Bonus Law and Veterans' Bonus Law Shall be Exempt From Montana State Income Tax; Providing an Effective Date; and Providing a Repealing Clause.	8
5		35	An Act to Approve and Legalize and Adopt as Prima Facie the Laws of Montana Replacement Volume Number 6 (in Two Parts) and Replacement Volume Number 7 of the Revised Codes of Montana, 1947, as Published by the Publishers and Distributors of Said Codes.	9
6		58	An Act to Amend Section 19-107, R. C. M. 1947, Relating to Legal Holidays and Business Days and Holidays for Banks Practicing Saturday Closing.	10
7		59	An Act to Amend Sections 5-201 and 5-217, R. C. M. 1947, Relating to Articles of Incorporation of a State Bank and Amendments to Such Articles; and Providing That Articles of Incorporation and Amendments Thereto May Provide for a Flexible Number of Directors of a State Bank.	11
8		23	An Act Amending Section 66-512, R. C. M. 1947, to Increase the Maximum Fee for Renewal of Chiropractor's Licenses to Twenty-Five Dollars ($25.00) and to Require Persons Licensed to Practice Chiropractic to Attend Annually an Education Program.	14
9		77	An Act Amending Section 26-202.1 to Allow Certain Residents to Hunt Game Birds Without a License.	15
10	8		An Act to Establish the Policy of the State of Montana on Protection of Fishing Streams; Providing for Submission of Plans for Construction and Hydraulic Projects Affecting Such Streams to the Montana Fish and Game Commission and for Review of Such Plans; and Providing for Arbitration of Disagreements Between the Fish and Game Commission and the Agency Proposing Such Projects.	16
11	35		An Act to Amend Section 26-201, Revised Codes of Montana, 1947, as Amended by Chapter 34, Session Laws of 1959, Relating to Definitions; Removing Canada Lynx From Fur-Bearing List; Containing a Repealing Clause; and Providing for Effective Date.	18
12	114		An Act Authorizing the State Fish and Game Commission to Issue Special Nonresident Antelope and Special Nonresident Deer Licenses, Fixing the Fees, and Powers and Duties Under Such Licenses; Containing an Expiration Date.	19
13	140		An Act Declaring it Unlawful to Ship or Take Out of the State Any Aquatic Insects for Speculative Purposes, for Market or for Sale.	21

HeinOnline -- 1965 ix 1965

Chap.	Senate Bill	House Bill	Title	Page
14		89	An Act to Provide the State Fish and Game Commission Authority to Enter Into Reciprocity Agreements With Any Neighboring State for the Mutual Licensing of Fishermen on Any Part of Lakes and Reservoirs Within or Partly Within Ten (10) Miles of State Boundaries.	21
15		97	An Act to Amend Subsection (a) of Section 47-210, R. C. M. 1947, Relating to the Maximum Rates of Charge Under the Montana Consumer Loan Act and to Amend Section 47-214, R. C. M. 1947, Relating to Insurance and Authorizing That Credit Life Insurance May be Provided by a Licensee and Providing Conditions Concerning Such Insurance.	22
16		111	An Act to Amend Section 16-1001, R. C. M., 1947, Relating to Powers of Supervision of Boards of County Commissioners; Providing That the Board of County Commissioners May, in its Discretion, Pay Proper Charges for Insurance Providing Indemnity to Any County Officer Against Liability for Loss, Without Fault, of Money, Securities, or Other Property; Repealing Acts or Parts of Acts in Conflict Herewith.	25
17		132	An Act Amending Section 16-3101, R. C. M. 1947, to Make County Attorneys Counsel for Fire Districts in Unincorporated Territories, Towns or Villages.	25
18		144	An Act to Amend Section 16-1015, R. C. M. 1947, Relating to the Powers and Duties of County Commissioners to Levy an Annual Tax on the Taxable Property of the County to Defray Current Expenses, Including Salaries Not Otherwise Provided for, Not Exceeding Sixteen (16) Mills for Any One (1) Year and to Levy Such Taxes as are Required by Special or Local Statutes; and Providing for an Additional Levy of Four (4) Mills for a Prescribed Period.	27
19		281	An Act to Amend Section 11-2226, R. C. M. 1947, Which Authorizes a City Council to Order Construction of Sidewalks and Curbs Without the Formation of a Special Improvement District; by Providing That a City Council May Order Construction of Sidewalks, Curbs and Gutters, or Any Combination Thereof, Without the Formation of a Special Improvement District.	28
20		39	An Act Authorizing the Use of Electronic Voting Systems by Counties, Cities and Towns.	29
21		104	An Act Extending the Time to File a Declaration of Vested Ground Water Rights, and Amending Section 3, Chapter 237, Laws of 1961, Compiled as Section 89-2913, R. C. M. 1947.	34
22		118	An Act to Amend Section 69-1802, Revised Codes of Montana, 1947, to Include Boarding and Nursing Homes for Aged Persons in Those Buildings Covered by the Provisions of Chapter 18 of Title 69, Revised Codes of Montana, 1947, Relating to Fire Safety Requirements and Inspection.	38
23		149	An Act to Amend Section 84-429.8, R. C. M. 1947, Which Authorized a Tax Levy of Two (2) Mills for a State-Wide Reclassification and Reappraisal of All Taxable Lands and Improvements, by Authorizing a Levy of Not to Exceed One (1) Mill Upon All Property Subject to Taxation for Maintaining and Keeping Current Such Reclassification and Reappraisal.	38
24		152	An Act to Amend Section 11-1912, R. C. M. 1947, Relating to Disability and Pension Funds of Fire Department Relief Associations and the Tax Levy for Maintaining Same; Providing for an Increase Thereof; and Providing a Maximum Levy for Such Provisions by Cities in the Third Class.	39
25		157	An Act Declaring the Raising of Fur-Bearing Animals in Captivity to be an Agricultural Pursuit Without Altering the Powers or Duties of the State Fish and Game Commission Under Existing Statutes.	41
26		237	An Act to Amend Section 40-2821, R. C. M., 1947, by Extending the Period When the Tax on Net Insurance Premiums Shall be Two and One-Quarter Per Cent (2¼%) of Such Premiums From the Calendar Years 1963 and 1964 to the Calendar Years 1965 and 1966.	42

HeinOnline -- 1965 x 1965

Chap.	Senate Bill	House Bill	Title	Page
27		254	An Act Amending Section 11-986, R. C. M. 1947, by Deleting the Prohibition Against Cities and Towns Erecting Structures on Parking Areas.	45
28		262	An Act to Amend Section 26-201, R. C. M. 1947, as Amended, Redefining Angling or Fishing, and Further Redefining Game Fish to Include All Species of the Genus Polyodon (Paddlefish).	45
29		265	An Act Requiring Consent of the Senate on Appointment of Certain Commission Members; Amending Section 26-102, R. C. M. 1947.	47
30		308	An Act Increasing the Amount Ditch Companies May Levy for Certain Purposes From Five to Ten Per Cent of the Amount of Capital Stock; Amending Section 15-702, R. C. M. 1947.	49
31		371	An Act Concerning Tax Levies For City and County Emergencies and Containing an Effective Date and Containing an Expiration Date.	49
32		22	An Act Amending Section 16-2618 R. C. M. 1947, to Provide for the Investment of Moneys of Any Common School District, High School District, or County High School.	51
33		81	An Act to Amend Subsection (1) of Section 75-2707, R. C. M. 1947, Pertaining to Retirement at Age of Seventy of Members of the Teachers Retirement System, and Providing the Exception to Required Retirement.	55
34		87	An Act Amending Sections 75-2516 and 75-2518, R. C. M. 1947, Relating to Certification of Elementary Teachers.	56
35		122	An Act Providing For the Protection of the Public Health by Establishing Controls of Refuse Disposal Areas, Defining Terms Used in the Act, Prohibiting Dumping in Unlicensed Areas, Requiring a License to be Obtained From the Local, County or District Health Officer, Requiring the State Board of Health to Approve Disposal Areas, Authorizing Revoking the License, Authorizing the State Board of Health to Promulgate Rules and Regulations, Excluding Refuse Disposal by an Individual of His Own Refuse on His Own Property From This Act, Eliminating the Payment of an Annual Fee by Governmental Agencies, Setting Forth Payments, Repealing All Acts and Parts of Acts in Conflict With This Act.	59
36		141	An Act to Permit the Movement of Trucks and Trailers for Demonstration Purposes; Providing for a Permit Therefor; Providing for the Fee for Such Permit; Providing for the Issuance, Validation and Duration of Such Permits; Providing for a Penalty and Providing for the Disposition of Fees.	62
37		169	An Act Changing the Procedure For Unifying a County High School With the School District in Which the County High School is Located: Amending Sections 75-4121, 75-4122, 75-4123, 75-4124, 75-4125, and 75-4126, R. C. M. 1947.	63
38		179	An Act to Amend Sections 11-3905 and 11-3906, Revised Codes of Montana, 1947, Relating to Elections in Connection With Urban Renewal Projects, and Providing an Effective Date.	67
39		203	An Act to Subject to Assessment and Taxation Interests in Property of the State of Montana Held by Taxable Ownerships.	70
40		223	An Act Increasing the Time Period For Which Special Improvement District Bonds May be Issued by County Commissioners From Twenty to Thirty Years; Authorizing Repayment by Counties Over a Period of Forty Years if Federal Loans Are Available; Authorizing Facsimile Signatures on Bond Coupons by County Commissioners; Amending Sections 16-1613 and 16-1620, R. C. M., 1947.	71
41		228	An Act to Amend Section 40-3011, Revised Codes of Montana, 1947, as Enacted by Chapter 286, Session Laws of Montana, 1959, Relating to the Valuation of Life Insurance Policies and Contracts; Prescribing Additional Mortality Tables for Such Valuation; and Providing for an Effective Date.	75

HeinOnline -- 1965 xi 1965

Chap.	Senate Bill	House Bill	Title	Page
42		229	An Act to Amend Section 40-3831, Revised Codes of Montana, 1947, as Enacted by Chapter 286, Session Laws of Montana, 1959, Relating to Nonforfeiture Provisions in Life Insurance Policies; and Providing for an Effective Date.	81
43		293	An Act Amending Section 4-113, R. C. M. 1947, to Require That Every Package of Liquor Sold Within the State Shall Have an Official Serially Numbered Seal.	89
44		318	An Act Providing For an Embargo Against the Importation of Grain, Hay, Straw, Plants, Seeds, Tubers, Nursery Stock, Fruit, or Other Materials Containing Noxious Weed Seeds Into the State; and Amending Section 16-1708, R. C. M. 1947.	92
45		368	An Act Permitting the Investment of Interest and Sinking Fund Moneys of Special Improvement Districts.	93
46		373	An Act Changing the Time For Filing of Candidates For Second and Third Class District School Boards From Five to Twenty Days Preceding the Election; Amending Section 75-1604, R. C. M. 1947.	94
47		409	An Act Providing For the Dissolution of Weed Control and Weed Seed Extermination Districts, and Amending Section 16-1723, R. C. M. 1947.	94
48		457	An Act to Amend Section 26-215, R. C. M. 1947, of the Fish and Game Law Authorizing the State Fish and Game Commission to Promulgate and Enforce Rules and Regulations Governing the Hunting of Nongame Animals in the Interest of Public Safety and Protection of Property.	95
49		258	An Act Amending Section 92-438, Defining an Independent Contractor and Relating to Legal Defense of Independent Contractor.	96
50		259	An Act Amending Section 92-410, Defining Employer	97
51		361	An Act Relating to Industrial Development; to Define Terms; to Provide for the Acquisition, Purchase, Construction, Reconstruction, Improvement, Betterment and Extension of Industrial Development by Cities, Towns and Counties for the Prescribed Uses and Purposes; to Authorize and Regulate the Issuance of Mortgages and Revenue Bonds for Financing Such Industrial Development as Prescribed; to Provide for Payment of Such Mortgages and Bonds; to Provide for Leasing of Property; and to Provide for Payment of Taxes.	97
52		46	An Act to Amend Section 32-2173 of the Revised Codes of Montana, 1947, to Require the Driver of a Motor Vehicle Entering a Highway From an Approach Ramp to Yield the Right of Way to All Approaching Traffic.	104
53		86	An Act Requiring the Inclusion of a Fiscal Note in All Bills Having An Effect on the Revenues, Expenditures or Fiscal Liability of the State.	104
54		133	An Act to Amend Section 32-2177 of the Revised Codes of Montana, 1947, Relating to Pedestrians' Right of Way in Crosswalk; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.	105
55		171	An Act to Revise the Commercial Fertilizer Law by Amending Section 3-1715 and 3-1727, R. C. M. 1947; Providing a Registration Fee for Soil Amendments; Providing That All Fees be Deposited in the Earmarked Revenue Fund; Providing for Penalties for Violations of the Commercial Fertilizer Act; and Repealing Sections 3-1701, 3-1702, 3-1703, 3-1704, 3-1705, 3-1706, 3-1707, 3-1708, 3-1709, 3-1710, and 3-1711, R. C. M. 1947.	106
56		177	An Act Amending the Professional Service Corporation Act of Montana to Include Nurses as One of the Professional Services Included Within the Provisions of the Act.	110
57		181	An Act Relating to Validation of Judicial Sales of Real Property and Curing Defects or Irregularities in the Issuance of Execution, Manner of Making or Conducting the Sale, or in the Recitals or References in Sheriff's Deeds, and Containing a Repealing Clause.	111

HeinOnline -- 1965 xii 1965

Chap.	Senate Bill	House Bill	Title	Page
58		182	An Act Validating Certain Instruments Affecting Real Property and Which Were Erroneously Executed or Acknowledged, Imparting Notice by Recording Thereof, Providing That Duly Certified Copies Thereof May be Read in Evidence With Like Effect as Copies of an Instrument Duly Acknowledged and Recorded, Containing a Repealing Clause.	112
59		183	An Act to Validate All Royalty and Minerals Reservations and Agreements Applicable Thereto, Heretofore Made by Counties, Containing a Repealing Clause.	113
60		184	An Act Validating Deeds and Conveyances in Sales of Land and Personal Property Heretofore Made by Trustees, Executors, Administrators and Guardians, Curing Defects and Irregularities in Such Sales, Containing a Repealing Clause.	113
61		195	An Act Relating to Group Accident and Sickness Insurance for Persons 65 Years of Age or Older, and Their Spouses; Providing Regulation of Such Insurance by the Commissioner of Insurance; and Providing an Effective Date.	114
62		222	An Act Amending Section 89-1208, R. C. M. 1947, to Increase the Salary of Irrigation District Commissioners.	118
63		250	An Act to Amend Section 31-110, R. C. M. 1947, Relating to Arrest Authority and Enforcement Power by Highway Patrolmen; Deleting a Provision Which Prohibits Patrolmen From Congregating to Supress Riots or Preserve the Peace, Deleting Obsolete Material Relating to the Examining of Drivers and Reporting Information Concerning Unfit or Unsafe Drivers to the Licensing Authority; Repealing All Acts or Parts of Acts in Conflict Herewith.	119
64		336	An Act Amending Section 16-1713, R. C. M. 1947, Relating to Mileage and Per Diem of Weed Control and Weed Seed Extermination Supervisors.	121
65		436	An Act to Amend Section 86-511, R. C. M. 1947, Relating to the Compensation of Trustees and Providing for Reasonable Compensation Under the Circumstances.	121
66		438	An Act Relating to the Retention by Trustees of Securities and Other Property Received Into the Trust.	122
67		451	An Act to Amend Section 4-140 of the Revised Codes of Montana, 1947, Relating to the Application of the State Liquor Control Act of Montana to Provide That the Manufacture, Distillation, Rectification, Bottling or Processing of Liquor as These Terms Are Defined Under the Provisions of the Laws of the United States, Shall be Authorized and Permitted by any Brewer, Distiller, Rectifier or Other Person Duly Licensed Under Any Provision of Any Statute of the United States of America in a Place and in the Manner Authorized by or Under Any Such Statute; Provided the Montana State Liquor Control Board May Make Such Regulations as it May Deem Necessary With Regard Thereto Not Inconsistent With This Act or With the Statutes of the United States or Federal Regulations Issued Pursuant Thereto.	122
68		472	An Act Concerning a Winter Work Program.	124
69	16		An Act to Amend Section 62-301, R. C. M. 1947, Vesting Powers and Duties Concerning State Parks in the Fish and Game Commission; Amending Section 62-304, R. C. M. 1947, to Except Wayside Camps From Fish and Game Control; Amending Section 62-307, R. C. M. 1947, Giving the Highway Commission Powers Concerning Certain Roads; Amending Sections 62-310 and 62-311, R. C. M. 1947, Making the Fish and Game Commission Responsible for Maintaining a State Scientific and Recreational Park; Amending Section 62-314, R. C. M. 1947, Providing for Violation of Rules Relating to State Parks; Amending Section 84-1812(1), R. C. M. 1947, to Provide One Percent of Certain License Taxes for Creation, Improvement, and Maintenance of State Parks Used for Motor Boating; and Repealing Section 84-1812(2), R. C. M. 1947.	125
70	22		An Act to Permit the State Board of Land Commissioners to Acquire a Tract of Land Which is of Archeological, Historic or Scientific Interest and Should be Preserved for Posterity; Providing for an Effective Date.	128

HeinOnline -- 1965 xiii 1965

Chap.	Senate Bill	House Bill	Title	Page
71	23		An Act to Amend Section 11-3248, R. C. M. 1947, Which Fixes Salaries of Mayors and City Commissioners Under the Commission-Manager Form of City Government; by Increasing the Salaries of Such Mayors and Commissioners.	129
72	33		An Act Amending Section 16-3205, R. C. M. 1947, Deleting the Requirement That County Auditors Reside at the County Seat; Providing That County Auditors be Paid Compensation Monthly; Providing an Effective Date.	130
73	36		An Act to Create a Committee on Problems of Aging.	130
74	41		An Act to Amend Section 75-3403 R. C. M. 1947, Authorizing School Board Trustees to Purchase or Rent Buses and Provide for Their Upkeep and for Two-way Radios for Said Buses; Providing for Contracts for Transportation Not in Excess of Five (5) Years; Providing for School Bus Depreciation Reserve Not in Excess of Twenty Per Cent (20%) Per Year to Replace Original Cost of School Buses; Providing for a Repealing Clause; Providing for an Effective Date.	132
75	49		An Act Validating, Ratifying, Approving and Confirming Bonds and Other Instruments or Obligations, Heretofore Issued by Public Bodies of This State, and All Proceedings Heretofore Taken by Such Public Bodies, to Authorize and Issue Such Bonds, Instruments and Other Obligations, However Described, and Providing That This Act May be Cited as "The 1965 Bond Validating Act"; Containing a Repealing Clause and Providing an Effective Date.	133
76	54		An Act Relating to the Uniform Commercial Code of Montana by Adding a New Section to be Known and Codified as Section 87A-9-408, Relating to the Filing by Certain Public Utilities of Certain Instruments Required to be Filed Under the Provisions of the Uniform Commercial Code; Providing for a Repealing Clause; Providing for a Severability Clause; and Providing for an Effective Date.	135
77	57		An Act Amending Sections 69-3001, 69-3002, 69-3003, 69-3004, 69-3007, 69-3008, 69-3009, 69-3010, 69-3012, 69-3013, 69-3014, and 69-3015, as Amended, R. C. M. 1947, Relating to Hospital Survey and Construction; Providing for the Development and Administration of Hospital, Medical and Related Facility Construction and Alteration Programs; Providing for Compliance With Requirements of Federal Acts and Regulations to Secure Assistance in Such Programs; Designating and Authorizing the State Board of Health as the Agency of the State of Montana for the Development and Administration of Such Programs and Empowered to Contract With the Federal Government in Furtherance Thereof; Repealing Section 69-3006, R. C. M. 1947; and Providing an Effective Date.	136
78	58		An Act Amending Sections 69-2901, 69-2902, 69-2903, 69-2905, 69-2906, 69-2907, 69-2908, 69-2910, 69-2911, 69-2915, 69-2916 and 69-2917, R. C. M. 1947, Relating to Hospital Licensing and Supervision by the State Board of Health to Include Licensing and Supervision of Medical Facilities and Facilities for Mental Diseases and Mental Retardation; Altering the Composition, Powers and Title of the Advisory Hospital Council With Regard to Such Licensing and Supervision; Repealing Section 69-2910.1, R. C. M. 1947; and Providing an Effective Date.	142
79	64		An Act Amending Section 25-508, R. C. M. 1947, to Increase the Number of Employees and School Board Members Whose Expenses to Attend Meetings of Educational Associations May be Paid; Providing for a Repealing Clause; Providing for a Savings Clause; and Providing for an Effective Date.	148
80	67		An Act to Amend Section 5-1028, R. C. M. 1947, as Amended by Chapter 39, Session Laws of Montana, 1963, Prohibiting Branch Banking; Providing for Drive-In and Walk-up Facilities With the Approval of the Superintendent of Banks Within Specified Distances From the Main Banking House; Providing for a Repealing Clause; Providing for a Severability Clause; Providing for an Effective Date.	150
81	78		An Act to Amend Section 92-706, Revised Codes of Montana, 1947, Authorizing Industrial Accident Board to Order Replacement or Repair of Artificial Limb Damaged in Industrial Accident.	152

HeinOnline -- 1965 xiv 1965

Chap.	Senate Bill	House Bill	Title	Page
82	89		An Act to Authorize Cities and Towns to Make An All Purpose Annual Mill Levy in Lieu of All Levies Now Authorized by Law; and Providing an Effective Date.	153
83	93		An Act to Amend Section 11-1024, Revised Codes of Montana, 1947, to Increase Amount of Governing Groups Participation in Group Health Plans From Not to Exceed Five Dollars ($5.00) Per Month to Not to Exceed Seven Dollars and Fifty Cents ($7.50) Per Month.	154
84	124		An Act to Amend Sections 87-106 and 87-148, R. C. M., 1947, Which Sections Are a Part of the Unemployment Compensation Law; by Limiting Benefit Disqualification of Retired Individuials to Those Entitled to Receive Retirement Compensation in Excess of One Hundred Dollars Per Month; by Excluding Securities Salesmen Paid Solely by Commission From the Definition of Covered Employment.	155
85	134		An Act to Amend Section 84-202 of the Revised Codes of Montana of 1947, Relating to Exemptions From Taxation, by Defining the Term "Institutions of Purely Public Charity" to Include Organizations Owning and Operating Facilities for the Care of the Retired or Aged or Chronically Ill Which Are Not Operated for Gain or Profit; Repealing All Acts or Parts of Acts in Conflict Herewith; and Providing an Effective Date.	166
86	102		An Act Amending Section 84-406, R. C. M. 1947, to Provide Livestock Being Fed in Feeding Pens or Enclosures May be Assessed on an Average Inventory Basis Rather Than the Fixed Assessment Date of the First Monday in March.	167
87	126		An Act Amending Sections 46-2102 and 46-2104, R. C. M. 1947, Providing That in Order to Defray the Expense of the Protection of Sheep Against Depredations Peculiar to Such Animals the Board of County Commissioners of Any County Shall Have the Power to Require All Owners or Persons in Possession of Any Sheep, Coming One Year or Over, in the County on the Regular Assessment Date of Each Year to Pay a License Fee of Not Exceeding Fifteen Cents (15c) Per Head of Sheep So Owned or Possessed by Him in the County.	168
88	131		An Act to Amend Section 53-707, R. C. M. 1947, Pertaining to Proportional Registration of Fleet Vehicles by Providing for Payment of Certain License Fees and Taxes and Amending Section 53-712, R. C. M. 1947, Pertaining to the Fee Formula by Adding Property Taxes Thereto and Amending Section 53-713, R. C. M. 1947, Pertaining to Registration of Proportionally Registered Vehicles Adding Payment of Property Taxes as a Requirement Thereof.	170
89	132		An Act for the Assessment and Collection of Personal Property Taxes on Proportionally Registered Interstate Motor Vehicle Fleets; Providing a Formula for Computing a Statewide Average County Mill Levy; and Providing the Method for the Distribution of This Tax to the Counties.	173
90	133		An Act to Provide for Maintenance of Frontage Roads and Amending Section 32-2002 to Define "Frontage Road".	176
91	135		An Act Relating to the Formation of a Cattle Protective District Within Any County in the State of Montana and Providing for its Formation and for its Powers and Duties, Including Organization, Tax Levy, and Discontinuance.	177
92	146		An Act Amending Sections 92-1311 and 92-1313, R. C. M., 1947, Relating to the Occupational Disease Act of Montana, Payment of Compensation, Exceptions and Limitations, and Notice of Disability or Death; to Except Therefrom Disability or Death Due to X-Ray and Ionizing Radiation.	179
93	157		An Act Amending Section 75-3612, R. C. M. 1947, Relating to the Foundation Program; Providing for a Minimum Budget for an Elementary School Not Approved as an Isolated School; Providing for the Financing of Such Budget; and Providing an Effective Date.	183
94	169		An Act to Amend Section 10-622, Revised Codes of Montana 1947, Relating to the Appointment, Removal and	

HeinOnline -- 1965 xv 1965

Chap.	Senate Bill	House Bill	Title	Page
			Salaries of Probation Officers for the Juvenile Departments of District Courts in the State of Montana; Providing for Salary Increases and Repealing All Acts and Parts of Acts in Conflict Herewith.	184
95	187		An Act Relating to Occupational Disease Compensation Act, Amending Section 92-1304, Revised Codes of Montana, Adding to the List of Compensable Diseases Specified.	185
96	209		An Act to Amend Section 75-5003, R. C. M. 1947, Relating to Special Education for Mentally Retarded and Physically Handicapped Children; to Provide for the Use of Existing Classes in Lieu of Local Provision of Special Classes; and Providing for the Computation of State Reimbursement for in School Programs Approved by the State Superintendent of Public Instruction.	186
97	199		An Act Providing That a Lien of Attachment on Real Property May be Released by the Clerk of Court Where No Action Has Been Taken to Foreclose Such Lien for a Period of Five Years.	188
98	225		An Act Relating to the Registration of Electors; to Require the County Clerk of Each County to Prepare a List of All Persons Residing in the County Who Have Reached Voting Age Since the Last General Election; and Amending Sections 23-502, 23-503, 23-505 and 23-511, R. C. M. 1947.	189
99	198		An Act Amending Sections 91-4415 and 91-4417, R. C. M. 1947, Providing for Limitations on Liens for Inheritance Tax.	193
100	189		An Act Authorizing Two or More Counties to Construct, Purchase, Lease, Equip and Operate a Joint County Hospital or Nursing Home for the Aged; Providing Definitions.	195
101	182		An Act Providing for Payments by the State to School Districts if Children of a State Employee Who Resides on the Property of a State Institution Attend School in the District.	196
102	181		An Act Amending Section 61-212, R. C. M., 1947, Relating to the Inheritance Rights of an Adopted Child, His Adoptive Kindred, and His Natural Kindred.	197
103	172		An Act to Amend Section 81-1704, R. C. M. 1947, to Provide for the Rate and Time of Royalty Payment and the Effect Thereof, for Gas Not Sold or Used Off the Premises; Repealing All Acts or Parts of Acts in Conflict Herewith; and Providing an Effective Date for This Act.	198
104	171		An Act to Amend Section 81-1715, R. C. M. 1947, to Provide for the Releasing of Oil and Gas Leases Expiring or Terminating for Any Cause by Advertising the Same for Sale at Public Auction; Providing for Preferential Rights of Prior Lessee on Lands Where Oil or Gas Has Been Produced; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date for This Act.	199
105	149		An Act to Provide for the Creation of a School District Within an Existing School District by a Licensed Nonsectarian Child Institution for the Education of Children if Said Procedure is Acceptable to the Existing School District; Providing for the Creation and Acceptance and the Operation of the Newly Created School District; Defining Licensed Nonsectarian Child Care Institution; Providing for the Expansion of Said School District and the Attendance of Pupils and Designating Students Who Shall be Part of Newly Created School District; and Providing for an Effective Date.	200
106	137		An Act Amending Section 69-3203, R. C. M. 1947, to Permit the State Board of Health to Provide Services to Children Afflicted With or Suffering From Cystic Fibrosis.	203
107	130		An Act for the Prevention, Control and Treatment of Venereal Diseases; Providing for Powers and Duties of State, County and Local Boards of Health, Physicians and Other Persons; Providing for the Methods of Control, Prevention and Treatment of Venereal Diseases; and Repealing Sections 69-1101, 69-1102, 69-1103, 69-1104, 69-1105, 69-1106, 69-1107, 69-1108, 69-1109, 69-1110, 69-1111, 69-1112, 69-1113, 69-1114, 69-1115, 69-1116, 69-1117, 69-1118, 69-1119, 69-1120 and 69-1121, R. C. M. 1947.	204

HeinOnline -- 1965 xvi 1965

Chap.	Senate Bill	House Bill	Title	Page
108	128		An Act Requiring a Test for Phenylketonuria to Infant Children and Empowering the State Board of Health to Adopt Necessary Rules and Regulations.	209
109	125		An Act to Establish a Stable and Uniform Basis for Interstate Cooperation to Provide a Means to Speed up the Development and Adoption of Uniform Standards for New or Improved Automotive Safety Equipment and to be Known as the Vehicle Equipment Safety Compact; Setting Forth the Basic Purposes of the Compact; Defining Certain Terms Used in the Act; Establishing a Vehicle Equipment Safety Commission and Outlining the Composition, Duties and Responsibilities of Such Commission; Authorizing Commission to Establish Salaries and Retirement System for Full-Time Employees; Providing That Commission Will Have an Appointed Commissioner From Each Party State With Commission Business Expenses to be Paid by Compact Commission; Empowering Commission to Carry on "Library Type" Research But Prohibiting Other Type Research and Testing; Authorizing Commission to Issue Rules and Regulations Embodying Performance Requirements for Items of Equipment After Conducting a Needs Study, Publishing Report of Such Study and Holding Hearings; Providing That Party States Are Not Obligated to Adopt Rules, Regulations or Codes of Commission But Must Consider Them; Providing That Official Adoption of Rules, Regulations or Codes of the Commission Shall Require Affirmative Action by the Legislature of the State of Montana Before Such Rules, Regulations or Codes Shall be Effective in Montana; Requiring Commission to Submit to the Budget Director of Montana the Budget of the Commission, the Costs of Which Are to be Apportioned Among the Member States on the Basis that Each Member State Contribute Equal Monies for One-Third (1/3) of the Total Commission Budget and That the Remainder of the Budget be Apportioned According to the Number of Motor Vehicles Registered in the Party State; Requiring That Commission Adopt Rules and Regulations to Minimize Conflicts of Interest; Authorizing Commission to Establish Advisory and Technical Committees; Providing for Entry Into and Withdrawal From Compact; Providing for Construction and Severability of Act; Repealing All Acts or Parts of Acts in Conflict Herewith.	209
110	115		An Act to Amend Section 68-1101, R. C. M. 1947, Relating to the Benefits Payable Upon the Death of Members of the Public Employees' Retirement System, to Provide That a Member's Nominated Beneficiary Need Not Have an Insurable Interest in the Member's Life to Qualify for Payment of the Death Benefit.	220
111	97		An Act to Amend Section 92-827, Revised Codes of Montana, 1947, Relating to the Record of Proceedings Before the Industrial Accident Board; Relating to Attorney Fees; Providing for the Furnishing of a Copy Thereof to the Claimant Without Cost on Appeal to the District Court; and Providing for the Furnishing by the Board to Indigent Claimants of a Transcript on Appeal to the Supreme Court; Repealing All Acts and Parts of Acts in Conflict Herewith.	222
112	96		An Act to Amend Section 94-6913, R. C. M. 1947, Relating to the Disqualification of a District Judge in Criminal Proceedings.	224
113	92		An Act to Amend Section 84-1817, R. C. M. 1947, Which Provides for Distribution of State Highway Construction Funds: by Providing That Twenty Percent (20%) of the State Money Available in Any Year Within a Financial District for the Primary System May be Transferred to the Secondary System in That Financial District.	226
114	84		An Act Amending Section 93-1906, R. C. M. 1947, Increasing the Annual Salaries of Court Reporters From Six Thousand Six Hundred Dollars ($6,600.00) to Seven Thousand Eight Hundred Dollars ($7,800.00).	230
115	72		An Act Requiring That Seat Belts be Installed in All Automobiles Manufactured or Assembled Commencing With the 1966 Models; Directing the Highway Patrol Supervisor to Establish Specifications and Requirements for Approved Types of Safety Belts and Attachments; and Providing a Penalty.	230

HeinOnline -- 1965 xvii 1965

Chap.	Senate Bill	House Bill	Title	Page
116	71		An Act to Amend Section 93-1301, R. C. M. 1947, by Removing the Maximum Age of Seventy Years From the Qualifications of Persons Otherwise Competent to Act as Jurors; Repealing All Acts and Parts of Acts in Conflict Herewith.	231
117	14		An Act Amending Section 75-3617, R. C. M. 1947, to Provide That an Elementary School Having an ANB of Nine (9) or Less May be Approved as an Isolated School Upon Certain Findings of the County Superintendent of Schools and State Superintendent of Public Instruction, Approved by the Board of School Budget Supervisors; and Providing for an Effective Date.	232
118		60	An Act Amending Sections 11-2007, 11-2022, 11-2023, 11-2024, 11-2025 and 11-2029, R. C. M. 1947, to Establish a State Pension Plan for Volunteer Firemen; Providing for Funding and Administration of Said Pension Plan; Prescribing Requirements for Participation in Said Pension Plan; Prescribing Method of Filing Claims and Making Pension Payments; Providing for Establishment of Training Programs for Volunteer Firemen to Establish Eligibility Under Said Pension Plan and Providing for Certificates Showing Participation in Such Training Programs; Requiring Copies of Certain Reports to be Made Available to the Chiefs or the Representatives of Volunteer Fire Companies; and Providing for an Effective Date.	233
119		73	An Act Relating to the Public Employees' Retirement System and Contracts Between Municipal Corporations, Counties and Public Agencies, and Amending Section 68-301, R. C. M. 1947.	241
120		76	An Act Providing for the Unit Ownership of Mulitple-Unit Buildings, and to be Cited as the Unit Ownership Act.	243
121		82	An Act Providing for the Disposition of, and Creating, Eliminating, and Adjusting Certain Fees Collected by the State Auditor, Department of Agriculture, State Board of Equalization, State Board of Health, Highway Patrol, Commissioner of State Lands and Investments, Board of Railroad Commissioners, Registrar of Motor Vehicles, and Superintendent of Public Instruction; Amending Sections 3-2411, 3-2410, 3-2466, 3-2301, 3-2417, 3-2313, 3-2312, 69-1910, 84-2402, 84-2404, 84-2405, 84-2406, 84-2407, 69-518, 69-2905, 31-138, 53-420, 81-419, 81-1113, 81-428, 81-426, 8-108, 8-109, 8-110, 53-108, 53-110, 53-112, 53-113, 53-117, 53-122, 53-139, 75-2521, and 75-3503, R. C. M. 1947.	255
122		130	An Act to Regulate Manufacturers and Purveyors of Food and Drink, and Establishments Preparing or Storing Food for Human Consumption; Defining Terms; Providing for Licensure and License Fee; and Providing Procedure for Cancellation or Denial of License; Providing for Control of Persons Working When Afflicted With Contagious or Infectious Disease; Empowering State Board of Health of Montana to Make and Enforce All Necessary Regulations Including Sanitary Standards for Such Establishments; and, to Establish Cooperative Agreements With Other Montana Agencies; Providing for Inspections, Sampling, and Report of Inspection; Making Reports of Inspections Evidence; Prescribing Penalties; Providing for Fee Required by This Act to Supercede Other Fees for Same Purpose; Directing That Unconstitutionality of a Part of This Act Shall Not Affect or Impair the Remainder; and Repealing Section 27-111, Revised Codes of Montana, 1947, as Amended or Supplemented.	282
123		185	An Act Validating Deeds and Conveyances Heretofore Made Which Are Defective in Execution or Acknowledgement, Providing That Such Instruments Shall be Conclusive Evidence of Title Against the Grantors, Containing a Repealing Clause.	288
124		186	An Act to Validate Records of Court Proceedings Containing Defects, Omissions, Informalities or Irregularities in Obtaining a Judgment or Decree Affecting Real Property, in Which Time for Appeal Has Expired; Providing That Duly Certified Copies of Such Judgment or Decree May be Read in Evidence With the Same Effect as Judgments or Decrees Duly and Regularly Obtained, Recorded and Entered; and Providing for a Repealing Clause.	289

HeinOnline -- 1965 xviii 1965

Chap.	Senate Bill	House Bill	Title	Page
125		212	An Act Requiring the State Highway Commission to Determine That All Property Taxes on Land Acquired for State Highway Purposes Have Been Paid, and if Necessary, to Withhold a Sufficient Amount From the Acquisition Cost to Pay the Same; and Amending Section 32-1615, R. C. M. 1947.	290
126		213	An Act Amending Section 53-119.1 R. C. M. 1947, Enacted as Section 1, Chapter 182, Laws of 1955 to Provide for the Movement of Mobile Homes or House Trailers as Unladen Vehicles When All Items Are Removed Except the Equipment Originally Installed by the Manufacturer and the Personal Effects of the Owner.	293
127		227	An Act Changing the Method for Computing School Tuition Payments; Amending Sections 75-1630 and 75-4230, R.C.M. 1947.	294
128		268	An Act Making it Unlawful to Throw, Dump, Deposit or Cause to be Deposited, Any Garbage, Refuse, Waste or Litter on the Right of Way of Any State, Interstate, or Secondary Highway; Providing for a Penalty, Reward and a Repealing Clause.	301
129		270	An Act Defining Adjusted Gross Income; Amending Section 84-4905, R. C. M. 1947.	301
130		273	An Act Providing for Release and Discharge of Liens Imposed With Respect to Any Tax Due Under Title 84, Chapter 49, R.C.M. 1947.	303
131		305	An Act Amending Section 94-1201, of the Revised Codes of Montana of 1947; to Provide Shelter Where Necessary for Household Pets.	304
132		363	An Act to Amend Section 40-3906 (4), Revised Codes of Montana, 1947, Relating to Life Insurance of Debtor Groups and Removing the Limitatiotn of Ten Thousand Dollars Contained in Said Section and Providing That the Amount of Life Insurance Shall be Limited to the Amount Owed by the Debtor to the Creditor, and to Repeal All Acts in Conflict Therewith.	304
133		417	An Act to Amend Section 11-3827, R. C. M. 1947, to Authorize Cities, Counties and City-County Planning Boards to Accept, Receive, Take, Hold, Own and Possess Any Gift, Donation, Grant, Devise or Bequest, or Any Property, Real, Personal or Mixed, or Any Improved or Unimproved Park or Playground, and Utilize, Hold or Dispose of the Same for Planning Purposes Not Inconsistent With the Provision of Title 11, Chapter 38, R. C. M. 1947.	305
134		437	An Act to Amend Section 67-1912, R. C. M. 1947, Relating to the Payment of Trustees' Annual Compensation Out of Income and Trustees' Final Termination Commissions Out of Principal.	306
135		452	An Act to Provide for Distinctive License Plates for Motor Vehicles Owned by Active Members of the Montana National Guard.	307
136	17		An Act Relating to Regulation of Certain Junkyards.	308
137	153		An Act Authorizing and Directing the State Highway Commission to Establish Temporary and Permanent Ports of Entry and Checking Stations.	312
138		70	An Act Limiting the Liability of a Landowner or Tenant to Persons Permitted to Enter Lands for Recreational Purposes, and Defining Recreational Purposes.	313
139		75	An Act to Establish Uniform and Modern Regulations Relating to Brakes on Vehicles; Requiring Brakes on All Vehicles and Specifying Exceptions Thereto; Requiring Vehicles to be Equipped With Both Service and Parking Brakes; Establishing Performance Ability of Brakes; Defining Hydraulic Brake Fluid; Authorizing Patrol Board to Adopt Brake Fluid Standards and Specifications; Prohibiting the Sale of Brake Fluid Which Does Not Meet Specifications; Repealing Section 32-21-143, R. C. M., 1947, and All Acts or Parts of Acts in Conflict Herewith.	314

HeinOnline -- 1965 xix 1965

Chap.	Senate Bill	House Bill	Title	Page
140		123	An Act Amending Section 75-4607, R. C. M. 1947, to Reduce the Period Between Original Division and Alteration of High School Building Districts.	322
141		124	An Act Providing for Formation and Control of Joint School Districts.	323
142		226	An Act Changing the Method for Computing School Tuition Payments for Mentally Retarded or Physically Handicapped Children; and Amending Section 75-5003, R. C. M. 1947.	324
143		233	An Act Amending Section 75-1618, R. C. M. 1947, to Require That a Person Voting at an Election of School Trustees Must be a Registered Voter.	326
144		294	An Act Amending Section 4-153, R. C. M. 1947, to Require the Liquor Control Board to Maintain Written Records of Liquor Received for Sampling Purposes.	327
145		296	An Act Amending Section 4-407.1, R. C. M. 1947, to Change the Published Notice Requirement for Liquor License Transfers From Four to Two Weeks.	327
146		445	An Act Providing That a Person May Not Be Elected or Appointed to the Office of Senator or Representative in Congress Who Has Not Resided in the State at Least One Year Prior to His Election or Appointment.	329
147	208		An Act to Amend Sections 75-1716, 75-1719, 75-1720, 75-4521, 75-4524 and 75-4525, Revised Codes of Montana, 1947 Relating to Emergency Budgets of School Districts and High Schools; and Containing a Repealing Clause.	329
148		246	An Act Defining Master Electricians, Journeyman Electricians, and Electrical Contractors, and Setting Forth the Qualifications, Examination and Licensing of Each; Adopting a Code of Standards; Providing for Certain Exceptions; Establishing a State Electrical Board; Providing for Appointment of State Electrical Inspectors; Providing for the Issuance of Licenses and Temporary Permits and Inspection Fees; Providing for License Examination; Providing for Disposition of Fees; Providing a Penalty; Repealing Sections 16-1180 and 16-1181; and Providing an Effective Date.	340
149	94		An Act Amending Section 92-701, Revised Codes of Montana, 1947, as Last Amended by Chapter 162, Laws of Montana, 1961, and Amending Section 92-702, Revised Codes of Montana, 1947, as Last Amended by Chapter 162, Laws of Montana, 1961, and Amending Section 92-703, Revised Codes of Montana, 1947, as Last Amended by Chapter 162, Laws of Montana, 1961, and Amending Section 92-704, Revised Codes of Montana, 1947, as Last Amended by Chapter 162, Laws of Montana, 1961, and Amending Section 92-709, Revised Codes of Montana, 1947, as Last Amended by Chapter 162, Laws of Montana, 1961, All Relating to Increases in Workmen's Compensation and Benefits for Temporary Total, Permanent Total, or Partial Disabilities, Injury Causing Death, and Specified Injuries; and Length of Time for Benefits for Injured Causing Death; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.	349
150		95	An Act to Amend Section 77-909 of the Revised Codes of Montana, 1947, as Amended by Chapter 141, Section 1, Laws of 1957, Relating to Providing Educational Opportunities in the Units of the Greater Universities of Montana for the Children of Members of the Armed Forces of the United States Killed While in the Armed Forces of the United States or Dying as a Result of a Disability or Disease Incurred While in Said Service During World War II and/or the Korean Conflict; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.	360
151		175	An Act Amending Chapter 259 of the Session Laws of 1963, to Provide for Continuing the Montana Centennial Commission as a Temporary Agency.	361
152		178	An Act to Enable Boards of County Commissioners to Levy an Assessment on Certain Taxable Real Property Within the Counties for the Expenses of Soil Conservation Districts; Amending Sections 76-202, 76-204, 76-208, 76-209 and 76-210, R. C. M. 1947; and Repealing Section 76-203, R. C. M. 1947.	362

HeinOnline -- 1965 xx 1965

Chap.	Senate Bill	House Bill	Title	Page
153		194	An Act to Provide for the Licensing and Regulation of All Petroleum Dealers and Liquefied Petroleum Dealers Who Sell or Offer to Sell to a Consumer and the Licensing of Any Device and the Regulation of its Use When Used for the Purpose of Delivering or Distributing Such Products as Are Sold or Offered for Sale by Such Dealers; Repealing Sections 60-201 and 60-202, R. C. M. 1947.	364
154		295	An Act Abolishing Individual Liquor Permits; Amending Sections 4-113, 4-102, 4-112, 4-116, 4-134, 4-136, 4-137, 4-138, 4-139, 4-159, 4-164, 4-201, 4-202, 4-234, 4-501, and 4-502 R. C. M. 1947; and Repealing Sections 4-157, 4-162, 4-165, 4-166, 4-168, 4-511, and 4-123 Through 4-132 R.C.M. 1947.	368
155		484	An Act Requiring the Lessee of Restaurants, Bars or Taverns to File Payroll Bonds for the Protection of Employees of Lessees Where the Equipment, Appliances, and Other Accessories Necessary for the Conduct of Business Therein at the Place of Business Are Owned by the Lessor.	379
156	20		An Act Relating to the Organization of Political Parties and the Selection and Election of Party Nominees and Officials; Giving Political Parties the Power to Make Rules and Regulations, Call Conventions, Select Delegates, Adopt Platforms, Nominate Presidential Electors, Select Officers and National Committeemen and Women, and Nominate Candidates to Fill Certain Vacancies; Amending Section 23-902, R. C. M. 1947, to Change the Date of the Primary Election; Amending Section 23-513, R. C. M. 1947, Relating to Closing of Registration and to Publishing and Posting of Notice of the Closing of Registration; Amending Section 23-514, R. C. M. 1947, Relating to Printing and Posting of Lists of Registered Electors; Amending Section 23-807, R. C. M. 1947, Relating to the Filing of Certain Certificates of Nomination; Amending Section 23-809, R. C. M. 1947, Relating to the Secretary of State's Certificate of Nomination; Amending Section 23-929, R. C. M. 1947, Relating to County and City Central Committees; Amending Section 23-1008, R. C. M. 1947, Relating to Payment of Convention Expenses; Amending Section 23-1117, R. C. M. 1947, Relating to the Furnishing of Ballots to Precincts; Amending Section 23-1611, R. C. M. 1947, Relating to Voting Machines; and Repealing Sections 23-930, 23-932, 23-1002, 23-1006, 23-1007, R. C. M. 1947.	383
157	55		An Act to Amend Section 69-1301, 69-1309, 69-1314, R. C. M. 1947, by Inserting Terms to Include Wells and Underground Waters Hitherto Not Expressly Included in This Act.	392
158	56		An Act to Amend Sections 11-725, 11-726, 11-728, 11-729 and 11-731, R. C. M. 1947, Pertaining to Salaries and Qualifications of Mayors and Aldermen, and Salaries of Police Judges, City and Town Treasurers, City and Town Clerks and City Attorneys by Providing for Increased Salaries for Mayors, Aldermen, Police Judges, City and Town Treasurers, City and Town Clerks and City Attorneys in First, Second and Third Class Cities and Towns and Providing an Effective Date.	393
159	61		An Act Relating to Insider Trading of Domestic Stock Insurance Company Equity Securities.	397
160	63		An Act to Provide for the Regulation of Commodities Put Up in Packages in Advance of Being Offered, or Exposed for Sale, Sold, or in the Process of Delivery; to Provide for the Method of Sale, Advertisement, and Enforcement; Repealing Sections 90-130, 90-132, 90-144, and 90-301, R. C. M. 1947.	400
161	83		An Act Providing for the Protection of the Public Health by Authorizing the State Board of Health to Control Public Swimming Pools and Bathing Places, Definitions Authorizing the State Board of Health to Supervise Public Swimming Pools and Bathing Places. Requiring Plans be Filed With the State Board of Health and Approval Obtained Before Construction, Requiring Pools and Bathing Places to be Operated in a Sanitary, Healthful and Safe Manner, Authorizing the State Board of Health to Make and Enforce Rules and Regulations, Authorizing County Health Officials to Enforce Rules and Regulations of the	

HeinOnline -- 1965 xxi 1965

Chap.	Senate Bill	House Bill	Title	Page
			State Board of Health, Authorizing Inspection, Authorizing Publication of Reports of Inspection, Declaring Pools and Bathing Places Operating Contrary to the Provisions of This Act a Nuisance, Authorization of Nuisance Abatement, Setting Forth Penalties, Repealing All Acts or Parts of Acts in Conflict With This Act.	410
162	127		An Act to Define Long-Term Care Facility for Ill, Infirm or Aged Persons; Providing for Inspection, Licensing and Regulation of Such Facilities by the State Board of Health; Providing for Establishment of Standards for Physical Plant, Staff and Operation of Such Facilities; Providing Procedures for Issuance, Denial or Revocation of License and Administrative and Judicial Review Thereof; Making Unlicensed Operation of Such Facility Unlawful and Providing Penalties Therefor; Providing an Advisory Council to Assist the State Board of Health; Providing for Continuation of Existing Regulations Until Regulations Under This Act Are Adopted, Published and Distributed; Providing a Severability Clause; and Repealing Sections 69-2401, 69-2402, 69-2403, 69-2404, 69-2405, and 69-2406, R. C. M., 1947.	413
163	144		An Act Amending Section 89-102 (b), R. C. M. 1947, to Enlarge the Scope of State Water Conservation Board Purposes to Allow Construction of Flood Prevention, Drainage, Fish and Wildlife and Recreation Projects; Development of Power; Amending Section 89-102 (c), R. C. M. 1947, to Allow the State Water Conservation Board to Calculate the Value of Public Benefits as a Nonreimbursible Item in Determining the Cost of Construction; and Amending Section 89-102 (d), R. C. M. 1947, to Include Drainage Districts and Flood Control Districts as Owners.	421
164	176		An Act to Establish Presumptions and Rules to Aid in Determining the Resident Status of Students Attending the University of Montana for Tuition and Fee Purposes and Providing an Effective Date.	423
165	190		An Act to Amend Chapter 44 of Title 16, R. C. M. 1947, as Amended, by Adding Sections 16-4414 to 16-4418, Both Inclusive, R. C. M. 1947, Relating to Metropolitan Sanitary and/or Storm Sewer Districts; Changes in the Boundaries Thereof; Definition of an Act Defining What is an Area Polluting a Water Course; the Establishment of Rates, Charges and Rentals for the Services and Benefits of Systems Constructed by Such Districts, to Provide for the Operation and Maintenance of Such Systems and for Deficiencies in Bond and Interest Accounts of District Funds; the Creation of Reserve Funds to Provide for Such Deficiencies; and the Validation of Actions and Proceedings Heretofore Taken in the Establishment of Such District; Providing an Effective Date.	425
166	204		An Act Providing for Continuity in the Board of Trustees When it is Necessary to Temporarily Move the Site of a School House From One Common School District to Another Common School District Within the High School District; Amending Section 75-4601, R. C. M. 1947.	429
167	217		An Act to Authorize the Organization and Consolidation of County Water Districts to Include Land in More Than One County, and Amending Section 16-4502, R. C. M. 1947, Relating to Organization of County Water Districts; Section 16-4503, R. C. M. 1947, Relating to Petition for Creation of a County Water District; Section 16-4504, R. C. M. 1947, Relating to Consideration of Said Petitions; Section 16-4505, R. C. M. 1947, Relating to Voting on Said Petitions; Section 16-4506, R. C. M. 1947, Relating to Election of Directors of County Water Districts; Section 16-4507, R. C. M. 1947, Relating to Nomination and Election of Officers; Section 16-4508, R. C. M. 1947, Relating to Canvassing of Returns; Section 16-4520, R. C. M. 1947, Relating to Publication of Notice of Election; Section 16-4527, R. C. M. 1947, Relating to Levy of Water Taxes; Section 16-4531, R. C. M. 1947, Relating to Additions to District; Section 16-4532, R. C. M. 1947, Containing Definitions; and Section 16-4533, R. C. M. 1947, Relating to Exclusion of Territory From County Water Districts and Providing for an Effective Date.	432
168		30	An Act to Amend Sections 84-301 and 84-302 R. C. M. 1947, Relating to the Classification of Property for Taxation in Order to Provide for a New Classification Relative to	

HeinOnline -- 1965 xxii 1965

Chap.	Senate Bill	House Bill	Title	Page
			Improvements on Real Property Owned and Occupied by a Recipient of Retirement Benefits, or a Widow Not Gainfully Employed to Such an Extent as Would Render Him Ineligible for Social Security Benefits; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.	450
169		53	An Act to Prevent Water Pollution by Prohibiting the Discharge of Sewage From Vessels; and Amending Section 69-3505, R. C. M. 1947.	454
170		134	An Act to Establish School Safety Patrols; Empowering the Governing Board or Other Directing Authority of Any School and Other Educational Institutions, Both Public and Private, to Authorize the Organization and Supervision of School Safety Patrols for the Purpose of Influencing and Encouraging Other Pupils to Refrain From Crossing Public Highways at Points Other Than Regular Crossings, and for the Purpose of Directing Pupils When and Where to Cross Highways; Providing for the Qualification and Appointment of Members of School Safety Patrols; Providing That No Liability Shall Attach to the Establishment of School Safety Patrols; Providing for Identification and Operation of School Safety Patrols; Providing for the Training of School Safety Patrol Members; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing for an Effective Date.	456
171		154	An Act Providing for the Creation of New Districts Out of Other Districts, and Amending Section 75-1805, R. C. M. 1947.	457
172		191	An Act to Prohibit Waiver of Statutory Exemptions.	461
173		263	An Act to Amend Section 26-104, R. C. M. 1947, Relating to Powers and Duties of the Fish and Game Commission, by Authorizing the Commission to Acquire Easements Upon Land and Waters Suitable for Fish and Game Purposes, by Prescribing the Manner of Conveyance of Fish and Game Land and Waters Held in the Name of the State of Montana, by Authorizing the Commission to Fix Possession Limits and Season Limits of Fish and Game and to Declare Special Seasons to Take Game Birds and Fish and Furbearing Animals, and by Authorizing the Commission to Promulgate Rules Governing Use of Lands Acquired or Operated by it in the Interest of Public Health, Safety and Protection of Property.	461
174		House Sub. for 339	An Act to Provide Visiting Nurse Services to be Performed by Public Health Nurses at the Direction of Licensed Physicians and Surgeons; Providing That County, City-County or District Boards of Health May Accept Payment for Such Services Either Directly or by Contract With the Recipients or Public Agencies; and Providing That Payments Made for Visiting Nurse Services Shall be Deposited in a Special Fund to be Used to Defray the Cost of the Services.	468
175		389	An Act to Amend Section 32-2170, R. C. M. 1947, Relating to Right of Way of Vehicles at Intersections Not Controlled by Sign or Signals; by Eliminating the Provision Which Grants Right of Way to First Vehicle Which Has Entered Intersection; Requiring Vehicles Approaching Intersection to Yield to Vehicle on Right; Repealing All Acts and Parts of Acts in Conflict Herewith.	469
176		7	An Act Amending Section 32-1014, R. C. M. 1947, Making Unlawful the Dumping of Garbage on Private or Public Property Where Public Recreation is Permitted.	470
177		38	An Act Relating to Surety Bonds for State Officers and Employees: Providing That the State Controller Shall Purchase All Surety Bonds for State Officers and Employees; Establishing Requirements and Procedures for the Purchase of Such Bonds; Amending Sections 5-602, 6-325, 6-326, 6-331, 3-103, 3-205, 4-106, 4-110, 5-603 26-102, 26-111, 26-115, 27-404, 32-1601, 32-1602, 40-1727, 41-1603, 44-404, 53-101, 66-407, 66-514, 66-904, 66-1505, 66-2203, 66-2333, 71-202, 71-203, 72-102, 75-303, 75-1301, 75-2703, 77-120, 80-1205, 81-201, 81-208, 81-1403, 81-2010, 81-2013, 82-107, 82-601, 82-1230, 82-3105, 89-103, 89-118, 90-122, R. C. M. 1947; And Repealing Sections 3-407, 6-101, 6-102, 6-103, 6-104, 46-702, 66-810, 77-1004, 79-809, 82-404, 82-507, 82-1013, 82-1907, 82-2213, 92-106 and 92-107, R. C. M. 1947.	471

Chap.	Senate Bill	House Bill	Title	Page
178		85	An Act Providing for the Reporting of Physical Abuse or Wilful Neglect of Children; Providing for Action to be Taken by the County Attorney in Cases Where Such Reports Are Made; Providing Immunity From Liability for Those Persons Participating in Making Such Reports; and Providing for the Admissibility of Such Reports Into Evidence in Proceedings Which Result From the Making of Such Reports.	498
179		128	An Act to Amend Section 16-2818, R. C. M. 1947, to Provide for Payment of Costs of Medication, Medical Services and Hospitalization Incurred by Prisoners.	500
180		164	An Act Concerning Per Diem and Reimbursement for Expenses of Members of the Legislative Assembly; Amending Section 43-310, R. C. M. 1947.	501
181		220	An Act Specifying Conditions Under Which Forfeiture of Bail or Deposit Instead of Bail Shall be Discharged; Amending Section 94-8704, R. C. M. 1947.	501
182		239	An Act Relating to Eminent Domain Proceedings; Amending Section 93-9913, R. C. M. 1947, to Clarify the Interest Payable to a Property Owner; Repealing All Acts or Parts of Acts in Conflict Herewith; and Providing a Severability Clause and an Effective Date.	502
183		240	An Act to Amend Section 92-902, Revised Codes of Montana, 1947, Relating to the Minimum Assessment to be Paid to the Industrial Accident Board at the Time of Filing of Proof of Solvency Under the Workmen's Compensation Act of Montana, Plan Number One, Providing for a Minimum Assessment in the Amount of Seventy-Five ($75) Dollars Per Year; Repealing All Acts and Parts of Acts in Conflict Herewith.	504
184		247	An Act Making it Unlawful to Damage, Deface or Remove Any Sign, Signal or Marker Erected on the Right of Way of Any Secondary, State or Interstate Highway; Requiring the State Highway Commission to Post Notices Hereof; Providing for a Penalty, Reward and a Repealing Clause.	505
185		261	An Act Making it Unlawful to Obtain or Attempt to Obtain Goods, Property or Services by False or Fraudulent Use of Credit Cards or Other False or Fraudulent Means, and Providing Penalties Therefor.	505
186		313	An Act to Amend Chapter 24 of Title 66 of the Revised Codes of Montana, 1947, by Amending Section 66-2402 Relating to Licensing of Plumbers by Adding Thereto Requirements for Licensing Journeyman Plumbers and Master Plumbers; and by Amending Section 66-2403 Relating to the Membership of the Board of Plumbing Examiners by Adding Two Members Thereto and Providing for Their Appointment by the Governor; and by Amending Section 66-2418 by Adding Thereto Provisions Establishing a Fixture Fee to be Used for the Inspection and Enforcement of the State Plumbing Code and Authorizing a State Plumbing Inspector, and Providing for a Penalty for Failure to Pay the Fixture Fee Established.	507
187		348	An Act to Provide a Charge of Fifty Cents (50c) Per Page for Copies of Income Tax Returns or Corporation License Tax Returns and a Charge of One Dollar ($1) for Issuance of a Certificate of Good Standing.	511
188		387	An Act to Amend Section 82-1519, R. C. M. 1947, by Changing the Provision Pertaining to the Salary of the Chairman of the State Board of Hail Insurance; and Containing an Effective Date.	512
189		450	An Act Amending Section 11-3810, Revised Codes of Montana, 1947, Providing for City-County Planning Boards, the Members and Terms of Office Thereof; Providing for Two (2) Official and Two (2) Citizen Members to be Appointed by the Board of County Commissioners, and Two (2) Official and Two (2) Citizen Members to be Appointed by the City Council; Providing for the Selection of One Member by the Appointed Officer and Citizen Members With the Consent and Approval of the Board of County Commis-	

HeinOnline -- 1965 xxiv 1965

Chap.	Senate Bill	House Bill	Title	Page
			sioners and the City Council; Providing for Permissive Residence Requirements; Providing for the Terms of Office of Both Official and Citizen Members; and Providing for the Repeal of All Acts in Conflict Herewith.	512
190		419	An Act to Authorize Duly Constituted City-County Planning Board to Conduct Specific Planning Projects Outside of the Jurisdictional Area of Said Planning Board, if Requested by the Board of County Commissioners, and to Construe Said Power Broadly so as to Enable the County to Qualify Under the Provisions of and Regulations Governing Any Planning Assistance Program Administered by Any Agency of the United States of America or the State of Montana.	514
191		423	An Act to Amend Section 66-2209 of the Revised Codes of Montana of 1947, as Amended by Chapter 90 of the Laws of 1955, Relating to the Definition of Veterinary Medicine; by Including in Such Definition the Performance of Procedure for Diagnosis of Pregnancy, Sterility or Infertility Upon Livestock for Remuneration.	515
192		473	An Act Allowing Cities and Towns to Tax Certain Motor Vehicle Bodies; and Amending Section 11-918, R. C. M. 1947.	516
193		355	An Act Relating to Taxation of Irrigation and Drainage Facilities.	517
194		357	An Act to Amend Section 10-524, Revised Codes of Montana, 1947, Relating to the Circumstances Under Which the State Will Help Aid Dependent and Neglected Children by Including State Payments for Children in Licensed Private Institutions; and Repealing All Acts and Parts of Acts in Conflict Therewith.	517
195		433	An Act to Amend Section 53-615, R. C. M. 1947, to Provide That One Truck-Tractor and Low-Boy Trailer Used by Contractors Engaged Exclusively in Soil Conservation Work and Land Leveling Activities Resulting in Direct Benefit to Agriculture be Included in the List of Vehicles to Pay Gross Vehicle Weight Fees at a Rate of Twenty Per Cent (20%) of the Fees Provided in Schedules I and II of Said Section, and Containing a Repealing Clause.	518
196		489	An Act Establishing a Horse Racing Commission and Defining its Powers and Duties, Repealing Sections 94-2425, 84-6501, R. C. M. 1947; Providing for an Effective Date.	522
197	170		An Act to be Known as the Montana Highway Code, for the Codification and General Revision of the Laws Pertaining to Highways, Including Planning, Construction, and Maintenance; Amending Sections 16-1004, 16-2008, 16-2010, 16-2011, 16-3302, 53-122, 84-1831, 94-3202, and 94-3565, R. C. M. 1947, and Repealing Sections 16-1004.1, 16-1118, 16-1127, 16-1128, 16-2009, 16-2201 Through 16-2204, 16-3311, 16-3312, 32-102 Through 32-107, 32-201 Through 32-208, 32-302 Through 32-314, 32-316, 32-401 Through 32-413, 32-415, 32-416, 32-501 Through 32-507, 32-509 Through 32-526, 32-601, 32-602, 32-701 Through 32-711, 32-713 Through 32-715, 32-901 Through 32-905, 32-1002 Through 32-1010, 32-1012 Through 32-1014, 32-1016, 32-1301, 32-1601 Through 32-1610, 32-1613 Through 32-1618, 32-1620, 32-1622 Through 32-1626, 32-1801 Through 32-1804, 32-1901 Through 32-1915, 32-2001 Through 32-2010, 53-615 Through 53-619, 53-621 Through 53-623, 53-628 Through 53-631, 53-634 Through 53-639, 53-643, 84-1812 (1), 84-1812 (2), 84-1815, 84-1817, 89-821, 89-822, and 94-3201, R. C. M. 1947; Providing for a Savings Clause and Providing for the Effective Date of This Act.	527
198	200		An Act Relating to the School Foundation Program; Providing for Changes in Financial Schedules for the Maximum General Fund Budgets for School Districts and County High Schools; Providing for the Financing of Such Budgets; Removing Requirement for Schedule Revision; Amending Sections 75-1713.1, 75-3616, 75-3618, 75-3619, 75-3706, 75-4516.1, and 75-4518.1, R. C. M., 1947; Containing a Repealing Clause; and Providing an Effective Date.	628

HeinOnline -- 1965 xxv 1965

Chap.	Senate Bill	House Bill	Title	Page
199	7		An Act for the Codification and General Revision of the Laws Relating to the Department of Institutions and the Following Institutions: Montana Veterans' Home, State Hospital, State Prison, State Pulmonary Disease Hospital, Montana Center for the Aged, State Industrial School, State Training School and Hospital, Montana Children's Center and State Vocational School for Girls; Amending Sections 10-504, 10-506, 10-507, 10-509, 10-512, 10-612, 10-632, 16-2723, 16-3410, 69-317, 69-318, 69-2308, 75-3002, 82-401, 82-602, 82-1014, 82-1131.1, 82-1202, 82-1301, 82-2202, 82-1914, 91-105, 91-106, 94-35-264, 94-8020, 94-8022, and 94-8023, R. C. M. 1947, and Repealing Sections 10-101, 10-101.1, 10-102, 10-105, 10-110 Through 10-114, 10-118 Through 10-121, 38-101, 38-102, 38-104, 38-712 Through 38-724, 38-802, 38-804 Through 38-807, 38-810, 38-811, 38-813 Through 38-816, 38-819, 38-1001, 38-1002, 38-1003, 38-1101, 38-1106, 38-1108 Through 38-1112, 72-144, 80-201, 80-206, 80-207, 80-209, 80-210.1, 80-215, 80-302, 80-303, 80-308, 80-310, 80-311, 80-313, 80-316, 80-320, 80-601 Through 80-608, 80-701 Through 80-705, 80-707, 80-707.1, 80-707.2, 80-707.3, 80-707.4, 80-707.5, 80-708 Through 80-715, 80-719, 80-720, 80-731, 80-732, 80-733, 80-738, 80-740, 80-740.1, 80-742, 80-743, 80-745, 80-746, 80-748, 80-806, 80-807, 80-809, 80-811, 80-815 Through 80-824, 80-902, 80-903, 80-911, 80-915, 80-918 Through 80-929, 80-1001 Through 80-1006, 80-1101, 80-1201 Through 80-1212, 80-1301 Through 80-1306, 80-1103, 82-2801 Through 82-2803, 94-35-152, 94-35-152.1 Through 94-35-152.18, R. C. M. 1947.	639
200		374	An Act Amending Section 81-803, R. C. M. 1947, to Provide for an Exemption From Filing Plats When Applying for Easements on State Lands for Pipelines and to Provide for Consent of a Purchaser Under a Sales Contract.	674
201		383	An Act to Provide for Civil Rights; Defining Terms; and Providing for a Penalty for Violations.	676
202		386	An Act to Provide a Reputable [sic] Presumption That Possession of Recently Stolen Livestock Shall be Deemed Prima Facie Evidence of Guilt of Larceny.	678
203		402	An Act to Amend Section 82-3318, R. C. M. 1947, to Provide for the Appointment of a Three Member Advisory Council Consisting of a Licensed Architect, a Licensed General Building Contractor and a Consulting Engineer to Assist and Advise the State Controller; Providing for Regular Meetings of Such Council; Providing an Effective Date; Providing for Per Diem and Travel Expenses for the Members of Such Advisory Council; and Containing a Repealing Clause.	679
204		405	An Act to Amend Section 66-1315 R. C. M. 1947, by Providing for Prosecution of Violations Under the Act Regulating the Practice of Optometry.	680
205		427	An Act to Amend Section 75-1813, R. C. M. 1947, Relating to the Creation of School Districts by Consolidation and Annexation of Existing School Districts.	681
206		429	An Act Relating to Special Improvement Districts in Cities and Towns; and Amending Section 11-2202, R. C. M. 1947, to Permit Improvement District for Building and Constructing Municipal Swimming Pools and Other Recreation Facilities.	684
207		469	An Act Amending Section 69-512, R. C. M. 1947, to Require Clerk and Recorders to Send Copies of Death Certificates to Certain County Clerk and Recorders in Certain Cases.	686
208		470	An Act Allowing Certain Trustees to Serve for One (1), Two (2) or Three (3) Year Terms; and Amending Section 14-509, R. C. M. 1947.	686
209		477	An Act Relating to the Time Schedule for Payments to Contracting Architects; and Amending Section 66-115, R. C. M. 1947.	687
210		479	An Act Relating to Construction and Maintenance of Certain Streets and Highways in or Near Incorporated Municipalities.	688

HeinOnline -- 1965 xxvi 1965

Chap.	Senate Bill	House Bill	Title	Page
211		Sen. Sub. for 495	An Act Providing for Formation and Control of High School Joint Districts in Adjacent Counties, and Providing Procedures for Creation Thereof.	690
212		House Sub. for No. 19	An Act to Provide for Medical Assistance for the Aged in Conformity With Title I of the Federal Social Security Act of 1935, as Amended; Providing for the Administration of the Act by the State Department of Public Welfare and the County Departments of Public Welfare; Providing Eligibility Requirements for Assistance Under the Act; Providing for Counties' Share of Participation Under the Act; and Amending Sections 71-106, 71-211, 71-216, 71-230, 71-241, 71-308, 71-309, 71-402, 71-405 and 71-406, R. C. M. 1947, to Provide Vendor Payment of Medical Care for Recipients of Old Age Assistance.	692
213		64	An Act Amending Section 75-1904, R. C. M. 1947, to Provide for the Cooperation of the Public Health Nurse or School Nurse or Public Health Medical Officer in Taking a Census of Handicapped Children and Providing That Such a Census be Conducted at Least Once Every Four Years as Directed by the State Superintendent of Public Instruction in Cooperation With the State Board of Health.	703
214		153	An Act Providing for the Election of Additional Trustees to the Boards of Trustees of High School Districts; Providing for the Establishment of Trustee Nominating Districts, and Amending Section 75-4601.	704
215		159	An Act Amending Section 44-127, R. C. M. 1947, Defining the Powers and Duties of the State Library Commission: and Repealing Sections 44-129 and 44-130, R. C. M. 1947.	707
216		199	An Act to Amend Section 25-605, R. C. M. 1947, Which Relates to the Salaries of County Officers; and to Provide for an Increase in Salaries of Those County Officers.	708
217		231	An Act to Provide for the Support of the Government of Montana for the Years 1965 and 1966, Providing a Severability Clause and an Effective Date.	710
218		235	An Act to Amend Section 27-203 R. C. M. 1947, by Adding Thereto a Subsection Which Would Provide That One Who Manufactures or Sells an Economic Poison Warrants the Same to Any Buyer or Ultimate User That the Product is Free From Defects, That Improper Materials Were Not Knowlingly (Sic) Used Therein, and That the Product is Reasonably Fit and Suitable for the Particular Purposes for Which it Was Manufactured and Sold.	712
219		284	An Act Amending Section 94-3550, R. C. M. 1947, Relating to Defrauding the Owner of an Inn or Hotel, Mobile Home Park, Tourist Camp Grounds as Defined by Section 69-112, R. C. M. 1947, Restaurant, Cafe, Apartment, Rooming or Boardinghouse, or Hospital; Providing for a Penalty for Violation Thereof; Containing a Repealing Clause.	715
220		289	An Act Amending Section 66-114, R. C. M. 1947, by Requiring Architects to Have Adequate Errors and Omissions Insurance When Performing Any Supervisory Acts Relating to the Construction of Any Public Buildings, Works or Improvements; Such Insurance to be in Effect for Three (3) Years After Completion of the Public Buildings, Works or Improvements.	716
221		314	An Act to Authorize, in Certain Instances, the Boards of County Commissioners to Levy an Additional Tax of Not to Exceed Ten and One-Half (10½) Mills for the County Poor Funds; Providing for an Effective Date and Repealing All Acts and Parts of Acts in Conflict Herewith.	718
222		321	An Act to Amend Section 4-318, of the Revised Codes of Montana of 1947, Relating to Application and Issuance of Beer Wholesalers' Licenses; to Provide That Existing Licensees May Incorporate and Transfer Said License to the New Corporation in Which Said Licensees Hold a Majority of the Stock; Repealing All Acts and Parts of Acts in Conflict Herewith.	719
223		345	An Act to Require That Those Buildings and Facilities, Constructed in the State by the Use of State, County or Municipal Funds, Shall Adhere to the Principles Prescribed	

HeinOnline -- 1965 xxvii 1965

Chap.	Senate Bill	House Bill	Title	Page
			by This Act in Order to Make These Buildings and Facilities Accessible to, and Useable by, the Physically Handicapped.	721
224		352	An Act to Amend Section 53-618 to Eliminate Reference to Section 53-114 and Substitute Therefor a Reference to Section 53-615.	730
225		366	An Act to Amend Section 32-1127, R. C. M. 1947, as Amended by Section 5, Chapter 243, Laws of 1961 by Providing for a Permit Description of the Powered or Towing Vehicle in Place of the Permit Description of the Vehicle or Load to be Operated or Moved.	730
226		91	An Act to Provide for Driver Education; Prescribing Certain Penalty Assessments and Driver's License Fees for the Financing Thereof; Creating an Automobile Driver Education Account in the Earmarked Revenue Fund; Providing for the Duties of the Superintendent of Public Instruction; Providing for the Reimbursement to School Districts and County High Schools Qualifying Under This Act; Amending Section 31-114, R. C. M. 1947; Amending Section 1, Chapter 149, Laws of 1961, Compiled as Section 94-801.2, R. C. M. 1947; Amending Section 32-1131, R. C. M. 1947; and Providing a Severability Clause.	733
227		92	An Act Concerning the Age at Which an Operators License May be Issued; Amending Section 31-127, R. C. M. 1947.	738
228		243	An Act Making the Transcription or Recording of Human Conversation Without the Knowledge of the Parties Thereto a Misdemeanor; and Excepting Public Officials and Employees When in the Performance of Official Duty; and Persons Speaking at Public Meetings or Given Warning of Any Such Recording.	740
229		283	An Act to Preserve Game Animals and Protect Private Property by Requiring That Nonresident Hunters be Accompanied by a Licensed Resident, and Making Any Violation a Misdemeanor.	740
230		311	An Act Amending Sections 94-3604, 94-3605 and 94-3606, R. C. M. 1947, as Amended Regarding the Seizure and Destruction of Obscene Matter.	741
231		354	An Act to Amend Section 82-3319, R. C. M. 1947, to Provide That the State Controller Shall Appoint Any Architect or Consulting Engineer for Work on Any State Buildings to be Constructed, Remodeled or Renovated, Subject to Approval by the State Board of Examiners, and Containing a Repealing Clause.	742
232	34		An Act to Describe, Define, and Officially Adopt a System of Coordinates for Designating and Stating the Positions of Points on the Surface of the Earth Within Montana.	742
233	86		An Act to Amend Section 68-501 of the Revised Codes of Montana, 1947, Paragraph (F), Relating to the Public Employees' Retirement System, Credit Allowance for Service Performed in National Defense; Repealing All Acts or Parts of Acts in Conflict Herewith; Providing an Effective Date.	746
234	95		An Act Amending Section 93-901, R. C. M. 1947, to Provide for the Disqualification of District Judges in Civil Actions and Proceedings; Prescribing Grounds and Procedure for Disqualification; and Repealing All Other Acts and Parts of Acts in Conflict Herewith.	753
235	100		An Act to Permit the Montana Fish and Game Commission to Plan and Develop Outdoor Recreational Resources in the State, Which Authority Shall Permit Receiving and Expending Funds Including Federal Grants for This Purpose; Creating an Outdoor Recreation Advisory and Planning Committee; Providing That the Act is Effective on Passage and Approval.	755
236	112		An Act to Amend Section 26-114, R. C. M. 1947, as Amended, by Providing for the Appointment of Such Employees of the State Fish and Game Commission to Act as Ex-Officio State Fish and Game Wardens as the Director, With the Approval of the Commission, Shall Appoint.	757

HeinOnline -- 1965 xxviii 1965

Chap.	Senate Bill	House Bill	Title	Page
237	139		An Act to Amend Section 66-2405, Revised Codes of Montana 1947, by Increasing Examination Fees and Renewal Fees for State Master and Journeyman Plumbers' Licenses.	757
238	155		An Act to Amend Section 26-105, R. C. M. 1947, Providing an Increase in the Total Annual Amount of Per Diem Allowed for the Members and Chairman of the Montana Fish and Game Commission.	758
239	156		An Act to Provide for the Issuance of Twenty Dollar ($20.00) Nonresident Bear Licenses by the Montana Fish and Game Commission.	759
240	180		An Act Authorizing School Districts Adjoining Another State to Contract With School Districts in the Neighboring State for the Joint Erection, Operation and Maintenance of School Facilities for Both Districts; Providing for the Financing of Such Joint Facilities; and Providing for the Approval of Contracts for Such Joint Facilities by the Electors of the School District.	760
241	211		An Act to Amend Section 26-202.1, R. C. M., 1947, Relating to Fish and Game Licenses, by Deleting Reference to Bear in the Resident Game Bird License, Granting Permission to Hunt Bear With All Game Animal Licenses, and by Restricting Non-Resident Hunting of Game Animals to Areas Designated by the Commission.	761
242	26		An Act Relating to Issuing Teaching Certificates to Persons Who Are Not Citizens; Amending Section 75-2501, R. C. M., 1947.	765
243	43		An Act to Submit to the Qualified Electors of Montana an Amendment to the Constitution of Montana by Adding a New Section to Provide for the Continuity of State and Local Governments in a Period of Emergency Caused by Enemy Attack Notwithstanding Other Constitutional Provisions.	766
244	59		An Act to Amend Section 91-4414, R. C. M. 1947, Relating to Exemptions From Inheritance Tax and Totally Exempt Transfers.	768
245	91		An Act to Amend Section 53-106, R. C. M. 1947, by Providing That the Number Plates on Motor Vehicles be Issued Annually; That They be Treated With Reflectorized Background Material or Numerals and Border; Providing for an Additional Registration Fee; Providing for the Disposition of Such Fees; Deleting Therefrom the Provision for Insert Tabs or Plates and Deleting Therefrom the Provision for Windshield Stickers.	770
246	109		An Act Relating to the Acquisition, Erection, Equipment, Enlargement and Improvement of Housing and Other Revenue-Producing Facilities at Units of the University of Montana, and the Borrowing of Funds Therefor by the Regents by the Issuance and Sale of Negotiable Bonds and Other Securities and the Making of Purchases on Time, Payable Solely From Net Income From Rents and Board, Receipts From Charges, Admissions or Fees for the Facilities, and Gifts, Contributions and Grants of Funds, Without Obligating the State of Montana or Using State Funds Except as Provided, and the Provision of Security for Such Borrowing, and the Refunding of Outstanding Obligations; Amending Sections 75-216, R. C. M. 1947, Enacted as Section 1, Chapter 252, Laws of 1963; 75-218, R. C. M. 1947, Enacted as Section 3, Chapter 252, Laws of 1963; and Providing an Effective Date.	773
247	111		An Act Relating to the Licensing of Day Care Facilities for Children.	779
248	119		An Act Relating to State Fiscal Procedures and Certain Funds and Accounts; Amending Sections 84-1812(1), 81-1502, 43-803, 46-1107, 59-1106, 3-1717, 3-2014, and 3-2016, R. C. M. 1947; and Repealing Section 84-1812(2), R. C. M. 1947.	784
249	158		An Act to Authorize School Boards of Trustees to Provide Transportation for Pupils Living Less Than Three Miles From School; Providing Standards for Vehicles and Drivers; and Providing a Fund to Account for Moneys Collected and Disbursed Under the Act.	791

HeinOnline -- 1965 xxix 1965

Chap.	Senate Bill	House Bill	Title	Page
250	168		An Act Requiring Two Red and Two Amber Flashing Lights on the Front and Rear of Each School Bus; Providing That Amber Lights Shall be Actuated Approximately Five Hundred Feet Before a School Bus is Stopped to Receive or Discharge School Children; and Amending Sections 32-21-132, 32-2197, 32-2198, and 75-3308, R. C. M. 1947; Providing for an Effective Date of July 1, 1966.	792
251	173		An Act to Amend Section 81-1702.2, Revised Codes of Montana, 1947, Which Provides for the Grounds Upon Which the State Board of Land Commissioners Has Power to Terminate Oil and Gas Leases Issued by it; Providing That the Commissioner of State Lands Shall Make Biennial Reports to the Legislative Assembly on Status of Oil and Gas Leases; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing for the Effective Date of This Act.	796
252	179		An Act Enabling the State of Montana to Accept Federal Facilities, Installations, Lands or Properties; Providing for an Effective Date.	798
253	184		An Act to Amend Section 59-1110, R. C. M., 1947, Relating to the Payment of the Employer's Tax Established by the Federal Social Security Act; Providing That Such Tax Shall be the First Obligation Against and Paid From State Funds Received by School Districts and County High Schools.	798
254	219		An Act Defining Air Pollution; Declaring Air Pollution a Public Nuisance; and Designating the State Board of Health of the State of Montana as the Air Pollution Study and Research Agency for the Receipt and Administration of Grants and Gifts for Air Pollution Research or Survey Programs.	799
255		49	An Act to Amend Section 71-209 of the Public Welfare Act Relating to Submission of a Budget and to Amend Section 71-501 of the Public Welfare Act Relating to the Age of Eligibility for Dependent Children.	800
256		100	An Act to Amend Section 53-101, R. C. M. 1947, as Amended by Chapter 208 of the Session Laws of the Thirty-Fifth Legislative Assembly, 1957, Relating to Duties and Records of the Registrar of Motor Vehicles by Providing a More Extensive Record in the Case of Dealers; to Amend Section 53-102, R. C. M. 1947, as Amended by Chapter 122 of the Session Laws of the Thirty-Seventh Legislative Assembly, 1961, Relating to Penalty for Violation and Enforcement of Provisions by Deleting Section 53-118 From the Penalty Provision Thereof; to Amend Section 53-118, R. C. M. 1947, as Amended by Chapter 245 of the Session Laws of the Thirty-Fourth Legislative Assembly, 1955, Relating to Applications for Dealers Licenses by Providing for Qualification of Dealers for Licensing and Providing a Penalty for Violation of the Section; to Amend Section 53-133, R. C. M. 1947, Relating to Definitions With Regard to Motor Vehicle Registration by Changing the Definition of Dealer to Conform With Section 53-118; Repealing Section 53-138, R. C. M. 1947; Providing a Savings Clause; and Repealing All Acts and Parts of Acts in Conflict Herewith.	802
257		121	An Act to Amend Sections 81-304, 81-402, 81-413, 81-421, 81-502, 81-802, 81-903, 81-915 and 81-919, R. C. M. 1947, Providing for the Exchange of State Lands and the Validation of Prior Action of the State Board of Land Commissioners; Providing the Commissioner of State Lands May Authorize a Lease on a Basis Other Than Crop Share in Certain Cases; Providing for the Determination by the Commissioner of State Lands of the Highest and Best Use of Certain Lands, Improvements by Lessee on State Lands, the Terms and Renewal of Coal Mining Leases of State Lands, Granting of Easements in State Lands, Terms in Sale of State Lands, State Lands Not Subject to Sale, and Settlement for Improvements by Lessee on State Lands Sold; Repealing Sections 81-417, 81-432, 81-433.1, and 81-435, R. C. M. 1947.	810
258		173	An Act to Prevent Unfair Competition and Unfair Trade Practices in the Sale of Cigarettes; to Prohibit Sales of Cigarettes Below Cost; to Protect and Stabilize the Collection of Taxes on the Sale of Cigarettes and Revenues From	

HeinOnline -- 1965 xxx 1965

Chap.	Senate Bill	House Bill	Title	Page
			the Licensing of Persons Engaged in the Sale of Cigarettes; to Confer Powers and Impose Duties on the State Board of Equalization and on Persons, as Herein Defined, Engaged in the Sale of Cigarettes at Retail or Wholesale; and Providing Remedies and Imposing Penalties for Violations Thereof.	816
259		176	An Act to Amend Section 75-2707, R. C. M. 1947, as Amended by Chapter 216, Session Laws of Montana, 1963, Providing for the Payment to the Named Beneficiary of a Deceased Member of the Teachers Retirement System the Sum of Fifty Dollars ($50.00) Per Month for Each Child of Said Deceased Member Under Eighteen Years (18) of Age if the Named Beneficiary is the Surviving Spouse of the Deceased Member and the Deceased Member Was Actively Engaged as a Teacher Within One (1) Year Prior to His Death; and Providing for an Effective Date.	826
260		189	An Act to Amend Section 16-912, R. C. M. 1947, Which Sets the Compensation and Mileage of Members of Boards of County Commissioners, by Increasing the Compensation and Mileage Allowed by That Section; and to Amend Section 32-314, R. C. M. 1947, Relating to Fees Paid to County Commissioners or County Surveyors for Inspecting Highways or Bridges, by Providing for an Increase in the Fees Allowed by That Section.	831
261		236	An Act to Provide for Annual Payments From the Premium Tax Collected on Motor Vehicle Insurance to Every City or Town Having a Police Department; Providing How Such Payments Shall be Expended by the Cities or Towns.	833
262		256	An Act Pertaining to the Establishment of Junior High Schools; and Amending Section 75-4202, R. C. M. 1947.	834
263		324	An Act to Authorize and Empower Counties, Cities, Towns, School Districts or Other Municipal Subdivisions of the State of Montana, and Agencies, Departments, Offices and Divisions of the State Government, and Other Agencies Authorized to Receive Federal Assistance Under Public Law 88-452, 88th Congress, Individually or in Combination, to Enter Into and Carry Out Contracts, Agreements and Plans With Agencies and Departments of the United States Government and to Expend Monies to Implement and Secure the Benefits of Public Law 88-452 of the 88th Congress, Enacted August 20, 1964 (78 Statute 508), Known as the "Economic Opportunity Act of 1964."	834
264		Sen. Sub. for 332	An Act Submitting to the Electorate at the November 1966 General Election the Question of Whether or Not a Tobacco Tax Should be Levied for the Purpose of Financing the Cost of Constructing and Remodeling State Buildings.	836
265		384	A Bill to Authorize the Issuance of Operating Licenses or Permits for Privately Owned and Operated Shooting Preserves by the Montana Fish and Game Commission and Fixing Fees for Such License or Permit; Providing for the Release of Artificially Propagated Game and the Taking of the Same on Privately Owned and Operated Shooting Preserves; Providing for the Fixing of Shooting Seasons on the Same; Providing for the Maintenance of Records by Operators Thereof; Providing for the Revocation of Licenses or Permits for Privately Owned and Operated Shooting Preserves; and Providing a Repealing Clause.	837
266		397	An Act to Amend Section 33-124, R. C. M. 1947, by Increasing the Value of the Homestead From Two Thousand Five Hundred Dollars to Seven Thousand Five Hundred Dollars; Providing for an Effective Date for This Act.	840
267		407	An Act Relating to Payments to Silicotics; Amending Sections 71-1003, 71-1004, and 71-1008, All Revised Codes of Montana, 1947, as Amended; Repealing All Acts and Parts of Acts in Conflict Herewith.	841
268		434	An Act Establishing a Position of Criminal Investigator; Providing an Appropriation; and Amending Section 82-401, R. C. M. 1947.	843
269		447	An Act Amending Section 84-1501, R. C. M. 1947, to Provide That the Corporation License Tax Shall be Five and One-Quarter Per Centum (5¼%) of All Net Income: Provided, However, That as to All Taxable Periods Ending on	

HeinOnline -- 1965 xxxi 1965

Chap.	Senate Bill	House Bill	Title	Page
			or After February 28, 1967, the Percentage of Net Income to be Paid Shall be Four and One-Half Per Centum (4½%); and Providing for an Effective Date.	845
270		504	An Act Amending Section 84-4907, R. C. M. 1947, Relating to Nonresident Taxpayers Personal Income Tax and Deductions Therefrom; and Providing an Effective Date.	848
271		517	An Act Creating an Off-Premises Beer License Account in the Earmarked Revenue Fund, Providing for an Appropriation, and Amending Section 4-333, R. C. M. 1947, Concerning Off-Premise Beer Licenses.	849
272		519	An Act Authorizing Cities, Towns or Counties to Participate in Flood Control or Flood Prevention Projects, to Acquire Property for Such Purpose, to Accept Federal Aid for Such Purpose, Providing for Division of Expenses in Connection With Such Purpose, Providing for Assessments, Permitting the Cities, Towns or Counties to Enter Into Certain Contracts in Pursuance of Such Purpose, Authorizing the Issuance of General Obligation Bonds for Such Purpose Upon an Election Thereon, Authorizing the State Water Conservation Board to Coordinate Such Activities When Two or More Counties Are Involved and for That Purpose Appropriating to the State Water Conservation Board the Sum of One Dollar ($1) From the General Fund of the State of Montana for the Biennium Commencing July 1, 1965, Containing a Repealing Clause and Containing a Savings Clause.	852
273	122		An Act to Submit to the Qualified Electors of the State of Montana an Amendment to the Montana Constitution Relating to the Apportionment of the Legislative Assembly; Amending Sections 2 and 3, Article VI; and Repealing Sections 4 and 45, Article V, and Sections 4, 5 and 6, Article VI.	856
274		37	An Act Providing for the Creation and Establishment of Community College Districts; Directing State Board of Education to Supervise Community Colleges and Junior Colleges; Providing for Elections to Create Community College Districts; Providing for Governing Board of Community College Districts and for the Election, Terms and Qualifications of its Trustees; Providing for Powers of Board of Trustees and Powers of Community College Districts; Providing Authority for, and Financing of, Maintenance and Operations and Capital Improvements of Community College Districts; Providing for Instruction to be Offered by Community and Junior Colleges; Authorizing Negotiations With School Districts for Property and Providing for Adult Education Courses and Exchange of Teachers; Providing That Present Junior Colleges May be Established as Community Colleges and Community College Districts; and Providing for Annexation of Additional Areas to Community College Districts; Repealing Sections 75-4401, 75-4402, 75-4403, 75-4404, 75-4405, 75-4406, 75-4407, 75-4408, 75-4409, 75-4410, 75-4411, 75-4412, R. C. M. 1947.	857
275		317	An Act to Require Owners of House Trailers to Display Property Tax Paid Stickers on Their House Trailers and to Require Persons Transporting House Trailers to Display Property Tax Paid Stickers and to Produce Property Tax Paid Receipts for State Law or Weight Enforcement Officials.	868
276		Sen. Sub. for 512	An Act Providing Revenue for the Long-Range Building Program; Providing for the Issuance and Sale of Bonds to Finance Said Program, Payable Solely From Special Non-Property Taxes Pledged to a Special Sinking Fund Account; Pledging and Appropriating Portions of the Income Tax, Corporation License Tax, and Excise Taxes on Cigarettes; and Amending Section 84-1901, R. C. M. 1947.	869
277		506	An Act Providing for a Non-Resident Contractor's License Fee.	875
278	104		An Act Amending Section 89-103, R. C. M. 1947, to Provide for an Increase in the Membership of the State Water Conservation Board; Removing the State Engineer as a Member of the Board; and Providing for Compensation for the Services of the Appointed Members of Said Board in the Amount of Twenty-Five Dollars ($25.00) Per Day.	878

HeinOnline -- 1965 xxxii 1965

Chap.	Senate Bill	House Bill	Title	Page
279	105		An Act Creating the Office of Director of the State Water Conservation Board; Providing for the Appointment of the Director of the State Water Conservation Board by the Governor; Providing for the Term of Office, Duties of the Director of the State Water Conservation Board and Limitations on Such Duties; and Providing That Nothing Herein Contained Shall Impair the Lawful Obligations of the State Water Conservation Board.	881
280	106		An Act Repealing Sections 81-2006, 81-2008, 81-2010, 81-2012, R. C. M. 1947, Thereby Abolishing the Office of State Engineer; Amending Sections 81-2009, 89-2018, 82-3001, 89-702, 89-847, 89-848, 89-849, 89-851, 89-907, 89-908, 89-909, 89-912, 89-914, 89-1201, and 89-2911, R. C. M. 1947, to Provide for the Transfer of Certain Duties of the State Engineer to the State Water Conservation Board; Abolishing the Carey Land Act Board; Repealing Sections 81-2001, 81-2002, 81-2003, 81-2004, 81-2005, 81-2007, 81-2013, 81-2015, 81-2017, 81-2101 Through 81-2121, 81-2123 and 81-2125 Through 81-2130, R. C. M. 1947; Providing for the Transfer of the Book and Records and Funds of the Carey Land Act Board and the Office of the State Engineer to the State Water Conservation Board; and Providing That Nothing in This Act Contained Shall Impair the Obligations of the State of Montana Under the Yellowstone River Compact or the Obligations of the State of Montana, or the State Water Conservation Board Contracted Prior to the Effective Date of This Act.	882
281		Sen. Sub. for 448	An Act Amending Section 84-4902, R. C. M. 1947, Relating to the Rate of Income Tax, to Provide an Increased Rate of Income Tax for All Taxable Periods Commencing After December 31, 1964, to an (Sic) Including All Taxable Periods Ending on or Before December 30, 1967; and Providing an Effective Date.	891
282		280	An Act to Amend Section 75-5101, R. C. M. 1947, Relating to Acceptance and Use of Federal Funds for Schools; Containing a Repealing Clause; and Providing an Effective Date.	892

APPROPRIATION BILLS

House Bill	Title	Page
2	An Act Appropriating Money for the Operation of the Thirty-ninth Legislative Assembly.	897
4	An Act Appropriating Seven Thousand Two Hundred Dollars ($7,200) for State of Montana Dues to the Council of State Governments for the 1965-1967 Biennium.	897
5	An Act Appropriating Moneys for the Operation of the Legislative Council for the Biennium Ending June 30, 1967, and for the Biennium Ending June 30, 1965.	898
57	An Act Appropriating Moneys Received From the Federal Government and Moneys From the State Parks Account in the Earmarked Revenue Fund to the State Highway Commission.	899
103	An Act to Appropriate Money for the Purchase of Replacement Volumes 2 and 5, and the 1965 Cumulative Pocket Supplements of the Revised Codes of Montana of 1947.	899
106	An Act Appropriating Money to the State Parks Division for the Biennium Ending June 30, 1965.	900
163	An Act to Appropriate Money to the State Soil Conservation Committee for Watershed Project Planning for the Biennium Ending June 30, 1967.	900
208	An Act Appropriating Thirty Thousand Dollars ($30,000) for the Montana Bureau of Mines and Geology to Fund Cooperative Greater Montana Coal Resources Research.	901
458	An Act Appropriating the Sum of Thirteen Thousand Nine Hundred Fifteen and 65/100 Dollars ($13,915.65) to Pay the Claim of Walter E. Jenkins, the Father and Legal Guardian of the Estate and Person of Judith Ann Jenkins, a Minor; the Claim Was Heard and Unanimously Approved and Allowed by	

HeinOnline -- 1965 xxxiii 1965

House Bill	Title	Page
	the State Board of Examiners; the Claim is for Injuries Received by the Minor Child, Judith Ann Jenkins, to Her Right Eye and Nose as a Direct Result of the Negligence of the Montana National Guard in Causing an Explosive Device to be Detonated During the Course of a Parade at Wibaux, County of Wibaux, Montana, on the 4th Day of July, 1961.	901
514	An Act to Appropriate Money to the Superintendent of Public Instruction and the Unemployment Compensation Commission, to Enable the State to Participate in the Manpower Development and Training Program, for the Biennium Ending June 30, 1967.	904
520	An Act to Appropriate Money to the State Highway Patrol for Certain Rewards.	905
522	An Act to Appropriate Money to the University of Montana, Montana State University, the Agricultural Experiment Station, the Co-operative Agricultural Extension Service, Montana College of Mineral Science and Technology, Western Montana College, Eastern Montana College, Northern Montana College, Western Interstate Commission for Higher Education, Office of Executive Secretary of Montana University System and the Board of Education for Operation and Capital for the Biennium Ending June 30, 1967.	905
524	An Act to Appropriate Money to Certain State Agencies for the Biennium Ending June 30, 1967.	910
525	An Act to Appropriate Money to the Attorney General, State Auditor, Governor, Railroad and Public Service Commission, Secretary of State, Supreme Court, State Treasurer and Superintendent of Public Instruction for Operation and Capital for the Biennium Ending June 30, 1967.	923
526	An Act to Appropriate Money to Certain State Institutions for the Biennium Ending June 30, 1967.	929
528	An Act to Appropriate Money for the Support of Public Schools; Reappropriating Certain Unexpended Balances Remaining on June 30, 1965; Appropriating Moneys for the Foundation Program and School Transportation Payments for the Biennium Ending June 30, 1967; and Appropriating Undistributed State Equalization Aid Remaining on June 30, 1966, and on June 30, 1967, for Per Pupil Payments to Counties; and Providing for Appropriations for Payments to School Districts for Children of a State Employee Residing on the Property of a State Institution Who Attend School in the District, for the Fiscal Years Ending June 30, 1966, and June 30, 1967.	935
529	An Act to Appropriate Money to Certain State Agencies for the Biennium Ending June 30, 1967.	938
530	An Act to Appropriate Money to Certain Licensing and Examining Boards for the Biennium Ending June 30, 1967.	950
532	An Act Appropriating Moneys to the State Department of Public Welfare for Old Age Assistance and Medical Assistance to the Aged.	953
533	An Act Appropriating Moneys for Certain Agencies and Institutions of State Government.	954
535	An Act Appropriating Moneys to the Department of Public Institutions and the Board of Education for Capital Projects.	955
(Veto on Section 5)		
536	An Act Appropriating Moneys to the Montana University System for Capital Projects, Repairs, Renovation and Remodeling for the Biennium Ending June 30, 1967.	963
537	An Act to Appropriate Money to Certain State Agencies for the Purchase of Land, the Repair, Remodeling, Renovation, Construction and Furnishing of Buildings and Other Improvements to Land.	959

SENATE JOINT RESOLUTIONS

No.	Title	Page
Senate Joint Resolution No. 1	A Joint Resolution of the House of Representatives and the Senate of the State of Montana Requesting That the Legislative Council Conduct a Comprehensive Study of Retirement Systems for Policemen and Firemen in the State, and Submit a Written Report of Their Findings Together With Any Necessary Recommendations and Implementing Legislation to the Fortieth Legislative Assembly.	995

HeinOnline -- 1965 xxxiv 1965

No.	Title	Page
Senate Joint Resolution No. 3	A Joint Resolution of the Senate and House of Representatives Directing the Legislative Council to Compile an Inventory of Water, Mineral, Timber, Petroleum, and Other Natural Resources of the State and Submit a Written Report of This Inventory to the Fortieth Legislative Assembly.	997
Senate Joint Resolution No. 4	A Joint Resolution of the House of Representatives and the Senate of the State of Montana Requesting and Urging That the Congress of the United States Propose an Amendment to the Constitution of the United States as Provided in Article V of the Constitution of the United States Providing That a State Having a Bicameral Legislature May Apportion Membership in One House of the Legislature on Other Than a Population Basis.	998
Senate Joint Resolution No. 5	A Joint Resolution of the Senate and House of Representatives of the State of Montana Making Application to the Congress of of the United States to Call a Convention for the Purpose of Amending the Constitution of the United States so as to Provide That a State Having a Bicameral Legislature May Apportion Membership in One House of its Legislature on Other Than a Population Basis.	999
Senate Joint Resolution No. 8	A Joint Resolution of the Senate and House of Representatives of the State of Montana Registering Opposition to the Proposed Merger of the Great Northern; Northern Pacific; Chicago, Burlington and Quincy; and the Spokane, Portland and Seattle Railroads.	1001
Senate Joint Resolution No. 9	A Joint Resolution of the Senate and House of Representatives Asking the Legislative Council to Conduct a Study of the Existing Tax Structure, Estimated Revenue From Various Types of Taxes, the Needs for New State Revenue and the Effects on the Montana Economy of the Various Revenue Sources.	1002
Senate Joint Resolution No. 11	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Congress of the United States and to the Members of the Montana Congressional Delegation, Requesting That Certain Provisions of Public Law 566, be Enlarged to Fit the Needs of the State of Montana and Other Western States Similarly Situated.	1004
Senate Joint Resolution No. 12	A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Legislative Council Study the Feasibility and Desirability of Consolidating the Administrative Functions of Professional and Occupational Licensing Boards.	1005
Senate Joint Resolution No. 13	A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the Legislative Council to Study Water Conservancy Districts and Report its Findings to the Fortieth Legislative Assembly of the State of Montana.	1006

HOUSE JOINT RESOLUTIONS

No.	Title	Page
House Joint Resolution No. 1	A Joint Resolution of the Senate and House of Representatives Requesting the State Controller and Budget Director to Prepare a Comprehensive Inventory of All State Moneys Held Outside the State Treasury for the Use of the Legislative Council in Preparing a Report on the Management of Such Funds for the Fortieth Legislative Assembly.	965
House Joint Resolution No. 2	A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Legislative Council Review and Recommend a Revision of Laws Relating to the State Board of Health.	966
House Joint Resolution No. 3	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Congress of the United States, the Montana Congressional Delegation, the Committee on Interstate and Foreign Commerce of the United States Senate, and the Committee on Interstate and Foreign Commerce of the United States House of Representatives Requesting the Passage of Legislation to Amend 34 Statutes at Large 1416, Codified as 45 United States Code, Section 62, Relating to the Hours Which Employees of Railroads May be Required to Work.	968
House Joint Resolution No. 6	A Joint Resolution of the Senate and House of Representatives of the State of Montana Asking That the President and Congress	

HeinOnline -- 1965 xxxv 1965

No.	Title	Page
	be Vigilant in Maintaining Quotas on Imported Meat or Meat Products and Requesting Rigid Inspection Requirements for Imported Meat or Meat Products.	969
House Joint Resolution No. 9	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the Senate and to the Speaker of the House of Representatives of the United States; to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators From the State of Montana; to the Honorable James Battin and the Honorable Arnold H. Olsen, Representatives From the State of Montana; and to the Honorable Orville L. Freeman, Secretary of Agriculture, Urging Passage of Legislation Extending the Sugar Act, to Protect the Future Economic Stability of Our Domestic Beet Sugar Industry and to Allow an Immediate Increase in Domestic Quotas.	970
House Joint Resolution No. 11	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the United States, the Honorable Lyndon B. Johnson, the Congress of the United States, the Administrator of the Veterans Administration, the Honorable William Driver and the Montana Congressional Delegation Protesting the Announced Closure of the Veterans Administration Hospital Located at Miles City, Montana.	971
House Joint Resolution No. 12	A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Legislative Council Review, Recodify, Clarify and Suggest Improvements to the Montana Fire Code, Reporting Their Findings and Recommendations to the Fortieth Legislative Assembly.	973
House Joint Resolution No. 13	A Joint Resolution of the Senate and House of Representatives of the State of Montana Expressing the Opinion That Thefts of Livestock Might Decline if There Were Consideration of More Stringent Application of Penalties by District Judges and the State Board of Pardons.	974
House Joint Resolution No. 14	A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Secretary of Agriculture Study Prices Paid to Meat Producers, Costs of Processing, and Retail Prices to Determine if Meat Processors and Retailers Are Receiving Unwarranted Profits.	975
House Joint Resolution No. 15	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the United States, the Honorable Lyndon B. Johnson, the Congress of the United States, the Secretary of Defense, the Honorable Robert S. McNamara, and the Montana Congressional Delegation, Questioning and Protesting the Announced Closure of the Glasgow Air Force Base Located at Glasgow, Montana.	976
House Joint Resolution No. 16	A Joint Resolution of the Senate and House of Representatives of the State of Montana Authorizing and Requesting the Governor to Proclaim 1965 a Year to See Montana, the United States and its Possessions, to Encourage and Promote Vacation Travel Therein, and Authorizing the Governor to Appoint a State Chairman to Coordinate the Efforts of State Agencies and Other Organizations in This Endeavor.	978
House Joint Resolution No. 17	A Joint Resolution of the Senate and House of Representatives of the State of Montana Asking That the Scenic Beauty of Montana be Given Full Consideration by State and Federal Agencies of Government When Other Natural Resources Are Being Developed.	979
House Joint Resolution No. 18	A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the Legislative Council to Conduct a Comprehensive Study of the Operation, Effectiveness and Powers of the Legislative Branch of Government.	980
House Joint Resolution No. 21	A Joint Resolution of the Senate and House of Representatives Requesting the Governor to Reappoint the Committee to Study the Montana Business Corporation Laws; to Expand That Committee and the Scope of Its Study to Include Corporations Not for Profit; and to Develop Ways and Means Whereby a Model Business Corporation Code and a Model Nonprofit Corporation Code Can be Drafted.	982
House Joint Resolution No. 22	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Congress of the United States, Requesting the Study of the Need to Regulate Forecasting of Election Results on Election Day by News Media.	983
House Joint Resolution No. 23	A Joint Resolution of the House of Representatives and the Senate of the State of Montana to the Honorable Mike Mansfield, the Honorable Lee Metcalf, United States Senators From the State	

HeinOnline -- 1965 xxxvi 1965

No.	Title	Page
	of Montana; the Honorable Arnold Olsen and the Honorable James Battin, United States Representatives From the State of Montana; to General George Walker of the Corps of Engineers, Omaha Division; Uurging Congress to Approve Development of the Upper Missouri River as Outlined by the Corps of Engineer's Modified Plan IV.	984
House Joint Resolution No. 25	A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the Federal Government to Construct an Air Facility Near Glacier National Park Which Would be Capable of Accomodating [sic] the Most Modern Type of Aircraft.	985
House Joint Resolution No. 26	A Joint Resolution of the Senate and House of Representatives of the State of Montana Opposing Nationalization or Socialization of Privately-owned and Operated Railroads and Urging Action by Congress and the President of the United States to Prevent State Ownership and Operation of the Railroad Industry.	986
House Joint Resolution No. 27	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the United States and Congressional Delegation of Montana to Consider Setting Up a Federal Disaster Insurance Program.	988
House Joint Resolution No. 28	A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the United States of America, Department of Interior, Bureau of Reclamation, United States Corps of Engineers and Congressional Delegation of Montana Requesting Immediate Action on a Program for Flood Protection in Montana.	988
House Joint Resolution No. 34	A Joint Resolution of the House of Representatives and the Senate of the State of Montana Calling for Speedy Enactment by the United States Congress, of an Amendment to the Taft-Hartley Act to Abolish That Provision of Said Act Dealing With Right to Work Laws.	989
House Joint Resolution No. 37	A Joint Resolution of the Senate and House of Representatives of the Legislative Assembly of the State of Montana Calling to the Attention of the Bureau of Public Roads and of the Montana State Highway Commission to the Duty of Such Agencies to Locate Highways in a Manner Compatible With the Greatest Public Good and the Least Private Injury, and Directing and Requesting That Such Agencies Locate, Operate, and Maintain the Highways in the State of Montana in Conformity With That Duty.	990
House Joint Resolution No. 38	A Joint Resolution of the Senate and House of Representatives of the State of Montana Expressing Support for the United States Commitment of Assistance to the Republic of Viet Nam and Further Expressing Support for Recent United States Military Action Against Bases in North Viet Nam.	992
House Joint Resolution No. 40	A Joint Resolution of the Senate and House of Representatives of the Thirty-ninth Legislative Assembly of the State of Montana Providing for Consent and Payment for Projects Not Included in the General Fund Budget.	994
House Joint Resolution No. 41	A Joint Resolution of the Senate and House of Representatives Consenting to a Capitol Construction Program.	995

HeinOnline -- 1965 xxxvii 1965

HeinOnline -- 1965 xxxviii 1965

SESSION LAWS

CHAPTER 1

An Act Relating to the Organization and Procedures of the Legislative Assembly; Prescribing the Duties and Compensation of Legislative Employees; Repealing Sections 43-211, 43-212, 43-213, 43-214, 43-302, 43-303, 43-305 Through 43-309 and 43-312 Through 43-317, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Duties and compensation set for employees of the 39th legislative assembly.

Section 1. The duties and compensation of the employees of the thirty-ninth legislative assembly are as follows:

$20.00 per day.

(1) The secretary of the senate and chief clerk of the house of representatives shall receive twenty dollars ($20) per day each. Their duties are:

Duties.

(a) To have custody of all records, bills, documents and other papers.

(b) To supervise the keeping of the journal, engrossing, and enrolling, and the handling of bills and resolutions.

(c) To deliver to the secretary of state at the close of each session, the journal, bill books, resolution books, and all copies of introduced and engrossed bills and resolutions.

(d) To collect from the chairmen or secretaries of all standing and special committees the minutes of such committees and deliver them to the state historical society.

$18.00 per day.

(2) The sergeants-at-arms of each house shall receive eighteen dollars ($18) per day each. Their duties are:

Duties.

(a) To maintain order under the direction of the presiding officer.

(b) To serve all processes.

(c) To receive, distribute and have custody of supplies.

HeinOnline -- 1965 1 1965

(d) To keep account for per diem and mileage of members and employees, and prepare and submit all claims for payment.

(e) To take an inventory at the close of each session of all furniture, fixtures, supplies and other property and turn such property over to the state controller for custody until the next session. One copy of the inventory shall be kept on file in the office of the sergeant-at-arms.

$18.00 per day. Duties.

(3) The law clerks of each house shall receive eighteen ($18) dollars per day each. Their duties are to draft legislation and perform legal research for members.

$15.00 per day. Duties.

(4) The engrossing and enrolling clerks shall receive fifteen dollars ($15) per day each. Their duties are:

(a) To engross or enroll all bills delivered to them within forty-eight hours after they have been received, unless further time is granted.

(b) To correct clerical errors, with the consent of the secretary of the senate or chief clerk of the house, in any bill originating in the house by which they are employed.

Correction of clerical errors.

Clerical errors such as the following may be corrected:

(i) errors in spelling

(ii) errors in numbering sections

(iii) adding or deleting underlining or lines through matter to be stricken

(iv) material copied incorrectly from the Revised Codes of Montana, 1947.

Author informed.

The secretary of the senate and chief clerk of the house shall inform the principal author and the presiding officer in writing of all such corrections. No bill shall be corrected after engrossment.

$15.00 per day. $15.00 per day. $12.00 per day.

(5) Bills committee chief clerk shall receive fifteen dollars ($15) per day. Secretaries to the judiciary, finance and claims and appropriations committees shall receive fifteen dollars ($15) per day. Secretaries to other standing or special committees shall receive twelve dol-

HeinOnline -- 1965 2 1965

lars ($12) per day each. All committee clerks and secretaries shall perform such duties as are assigned to them by the chairman of the committee by which they are employed. Duties.

(6) The assistant secretary of the senate, assistant chief clerk of the house, journal clerks, bill clerks, chief printing clerks, assistant sergeants-at-arms, the clerk to the chief clerk of the house, the stenographer to the secretary of the senate, chief stenographers, secretaries to presiding officers, secretaries to majority and minority floor leaders, secretaries to the sergeant-at-arms, and mimeograph clerks shall receive fifteen dollars ($15) per day each. They shall perform such duties as are assigned them by the persons to whom they are responsible. $15.00 per day. Duties.

(7) Assistant journal clerks, assistant bill clerks, assistant enrolling clerks, assistant engrossing clerks, assistant printing clerks, reading clerks, chief proof readers, payroll clerks, supply clerks, stenographers, mailing clerks and filing clerks shall receive twelve dollars ($12) per day each. They shall perform such duties as are assigned to them by the person to whom they are responsible. $12.00 per day. Duties.

(8) Typists, proof readers, telephone operators and elevator operators shall receive eleven dollars ($11) per day each. They shall perform such duties as are assigned to them by the persons to whom they are responsible. $11.00 per day. Duties.

(9) The chaplain of each house shall receive ten dollars ($10) per day. Their duties are to open each day's session with a prayer. $10.00 per day. Duties.

(10) Pages shall receive seven dollars ($7) per day each. They shall perform such duties as are assigned to them by the persons to whom they are responsible. $7.00 per day. Duties.

(11) Doorkeepers, janitors, assistant janitors, watchmen and all other employees of the legislative assembly not specifically enumerated in this act shall receive ten dollars ($10) per day each. They shall perform such duties as are assigned to them by the persons to whom they are responsible. $10.00 per day. Duties.

Section 2. The salaries specified in this act shall be paid for every day of the legislative session during which the employee is employed. The presiding officer of each Pay for days of employment.

HeinOnline -- 1965 3 1965

Authorization to extend employment.

house may authorize where necessary, the continued employment and compensation of employees for a period not to exceed fifteen days after the adjournment of a session of the legislative assembly.

39th assembly only.

Section 3. The salaries specified in this act are effective only for employees of the thirty-ninth legislative assembly.

Repealing clause.

Section 4. Sections 43-211, 43-212, 43-213, 43-214, 43-302, 43-303, 43-305 through 43-309 and 43-312 through 43-317, R. C. M. 1947 are repealed.

Effective immediately.

Section 5. This act is effective on passage and approval.

Approved by Governor January 7, 1965.

CHAPTER 2

An Act Amending Sections 11-2010, 11-3523 and 11-1901, R. C. M. 1947, to Allow Fire Districts and Incorporated Municipalities to Enter Mutual Aid Agreements With Certain Public and Private Agencies.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-2010, R. C. M. 1947, is amended to read as follows:

Board may contract for fire protection of established fire district in unincorporated territory.

Board may appoint trustees to manage fire district until elections are held.

Rules of office the same as for 2nd class school districts.

Only taxpayers affected by special levies may vote and serve as trustees.

"11-2010. (a) Whenever the board of county commissioners shall have established a fire district in any unincorporated territory, town or village, said commissioners may contract with a city, town or private fire company to furnish fire protection for property within said district, or shall appoint five qualified trustees to govern and manage the affairs of the fire district, who shall hold office until their successors are elected and qualified, as hereinafter provided. Qualifications of electors and trustees, terms of office, vacancies, manner and date of elections, shall, as far as possible, be the same as provided in the school election laws for school districts of the second class; except, that only electors who are taxpayers affected by the special fire district levies may vote at such elections, and be qualified to serve as trus-

HeinOnline -- 1965 4 1965

tees; and except, also, there need be no special registration of electors.

Authority and duties of trustees and fire companies.

(b) **Power of trustee.** The trustees shall organize by choosing a chairman, and appointing one member to act as secretary. They shall prepare and adopt suitable by-laws; appoint and form fire companies that shall have the same duties, exemptions, and privileges as other fire companies. The trustees shall have the authority to provide adequate and standard fire-fighting apparatus, equipment, housing and facilities for the protection of the district; and shall prepare annual budgets and request special levies therefor. The budget laws relating to county budgets, shall, as far as applicable, apply to fire districts.

Authority to contract.

District within 5 miles of unit furnishing protection.

Owners of 10% of property in fire district may elect between the city or fire district for protection.

Fire district equipment to be used within 5 miles of the farthest limits of the district.

(c) The trustees of such fire district may contract with the council of any city or town, or with the trustees of any other fire district established in any unincorporated territory, town or village, lying within five (5) miles of the farthest limits of the district, whether such city or town or other fire district shall lie within the same county or another county, for the extension of fire protection service by such city or town, or by such other fire district, to property included within the district, and may agree to pay a reasonable consideration therefor, provided, that the owners of ten per cent (10%) of the taxable value of the property in any fire district may elect to make a contract with the city fire department for fire protection, or to be included in the fire district protection facilities. Likewise, the trustees may contract to permit the fire district equipment and facilities to be used by or for such cities or towns lying within the district, or by such cities, towns, or other fire districts lying within five (5) miles of the farthest limits of the district.

Mutual aid agreement. Units with which fire district trustees may enter such agreements.

(d) A mutual aid agreement is an agreement for protection against natural or man-made disasters. Fire district trustees may enter such agreements with the proper authority of

(1) other fire districts

(2) unincorporated municipalities

(3) incorporated municipalities

(4) state agencies which have fire prevention services

HeinOnline -- 1965 5 1965

(5) private fire prevention agencies

(6) federal agencies."

Amending clause.

Section 2. Section 11-3523, R. C. M. 1947, is amended to read as follows:

Director of fire department to be chief thereof.

"11-3523. *(a)* The fire department of the municipality shall be in charge of a director who shall be chief thereof and who shall manage and control the department in the manner prescribed by the ordinances of the municipality.

Voluntary fire departments or fire districts not affected by adoption of consolidated county municipal government.

(b) Provided that notwithstanding any other provision of law the adoption of a consolidated county municipal government shall have no effect on the existence, rights or duties of any voluntary fire department or fire district created and legally in existence pursuant to the provisions of chapter 20, Title 11, Revised Codes of Montana, 1947.

Voluntary fire departments or fire districts not prohibited.

(c) Provided further that nothing in chapter 34, Title 11, Revised Codes of Montana, 1947, shall be construed to prohibit the creation of voluntary fire departments or fire districts pursuant to the provisions of chapter 20, Title 11, Revised Codes of Montana, 1947, within consolidated county municipalities.

Control of voluntary fire departments or fire districts.

(d) Voluntary fire departments or fire districts within consolidated county municipalities shall only be organized, created, supported, financed, dissolved, managed, and their boundaries shall only be changed, pursuant to the provisions of chapter 20, Title 11, Revised Codes of Montana, 1947.

Mutual aid agreements by voluntary fire departments or fire districts.

These organizations may enter mutual aid agreements as provided by section 11-2010, R. C. M. 1947."

Amending clause.

Section 3. Section 11-1901, R. C. M. 1947, is amended to read as follows:

Organization of fire departments under different forms of municipal government.

"11-1901. *(a)* There shall be in every city and town of this state a fire department, which shall be organized, managed and controlled as in this chapter provided, which shall in all respects be applicable to and shall govern and control fire departments in every such city or town organized under whatever form of municipal government save and except where this act is in conflict with the commission form of government, provided for in sec-

HeinOnline -- 1965 6 1965

tions 11-3101 to 11-3137, and amendments thereto; and where the provisions of this act do conflict with the provisions of said chapter and the amendments thereto pertaining to the commission form of government, then the provisions pertaining to the commission form of government shall prevail.

Mutual aid agreement. Units with which incorporated municipalities may enter such agreements.

(b) A mutual aid agreement is an agreement for protection against natural or man-made disasters. Councils or commissions of incorporated municipalities may enter such agreements with the proper authority of:

(1) other incorporated municipalities

(2) fire districts

(3) unincorporated municipalities

(4) state agencies which have fire protection services

(5) private fire prevention agencies

(6) federal agencies."

Approved January 23, 1965.

CHAPTER 3

An Act Changing the Name of 'The University of Montana' to 'The Montana University System', 'Montana State University' to 'University of Montana', 'Montana State College' to 'Montana State University', 'Montana School of Mines', to 'Montana College of Mineral Science and Technology', 'Western Montana College of Education' to 'Western Montana College', and 'Eastern Montana College of Education' to 'Eastern Montana College'; Amending Sections 75-401, 75-402, R. C. M. 1947; Repealing Section 75-402.1 R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-401, R. C. M. 1947, is amended to read as follows:

Establishment of the Montana university system.

"75-401. The university at Missoula, the *state university* at Bozeman, the *college of mineral science and technology* at Butte, the college at Dillon, the *college* at Billings and the *college* at *Havre,* and such departments of

HeinOnline -- 1965 7 1965

said institutions as may hereafter be organized, shall constitute the *Montana university system. All references in the Revised Codes of Montana 1947 to the 'university of Montana' shall mean 'the Montana university system'.*"

Amending clause.

Section 2. Section 75-402, R. C. M. 1947, is amended to read as follows:

Legal names of the units of the Montana university system.

"75-402. The legal names of the units of the Montana *university system* shall be as follows:

Unit at Missoula, *university* of Montana.

Unit at Bozeman, Montana state *university.*

Unit at Butte, Montana *college of mineral science and technology.*

Unit at Dillon, western Montana college.

Unit at Billings, eastern Montana college.

Unit at Havre, northern Montana college."

Repealing clause.

Section 3. Section 75-402.1, R. C. M. 1947, is repealed.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved January 25, 1965.

CHAPTER 4

An Act Amending Section 84-4907.1, R. C. M. 1947, as Amended by Section 1, Chapter 227, of the Laws of 1957, Relating to Veterans' Bonus Exemption from Income Tax Law; Providing That All Payments Made Under World War I Bonus Law, Korean Bonus Law and Veterans' Bonus Law Shall Be Exempt from Montana State Income Tax; Providing an Effective Date; and Providing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 84-4907.1 of the Revised Codes of Montana, 1947, as amended by section 1, chapter 227, of the laws of 1957, be amended to read as follows, to-wit:

HeinOnline -- 1965 8 1965

"84-4907.1 **Veterans' bonus—exemption from income tax law.** All payments made under the *World War I Bonus Law,* Korean Bonus Law and the Veterans' Bonus Law, are hereby exempt from taxation under the income tax laws of the state of Montana, and any income tax which has been or may hereafter be paid on income received from this source shall be considered an overpayment and shall be refunded upon the filing of an amended return and a verified claim for refund on forms prescribed by the board, in the same manner as other income tax refund claims are paid." Veterans' bonus exempt from income tax law.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective immediately.

Approved January 28, 1965.

CHAPTER 5

An Act to Approve and Legalize and Adopt as Prima Facie the Laws of Montana Replacement Volume Number 6 (in Two Parts) and Replacement Volume Number 7 of the Revised Codes of Montana, 1947, as Published by the Publishers and Distributors of Said Codes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Replacement Volume Number 6 (in two parts) and Replacement Volume Number 7 of the Revised Codes of Montana, 1947, as published by the publishers and distributors of said Revised Codes of Montana, 1947, are hereby, as to both form and substance, approved, legalized and adopted as prima facie the laws of Montana now in force and effect with respect to the titles and subjects covered thereby. The sections of said replacement volumes may be cited as sections of the Revised Codes of Montana, 1947, without reference to the session laws which enacted new matter or to the session laws which have amended the sections of the Revised Codes of Montana, 1947, as included in the original compilation of the Revised Codes of Montana, 1947. Replacement volumes 6 and 7 approved. Sections cited without reference to session laws.

Section 2. Nothing herein contained shall be deemed as invalidating or in any manner affecting the legality of Saving clause.

HeinOnline -- 1965 9 1965

any act or thing heretofore or hereafter done by authority of any enactment which is not included in said replacement volumes and nothing herein contained shall affect the existence, validity, or enforcement of any act, enactment, or title thereof, statute, or code section, omitted from, or erroneously, or incorrectly set forth in said replacement volumes.

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved January 28, 1965.

CHAPTER 6

An Act to Amend Section 19-107, R. C. M. 1947, Relating to Legal Holidays and Business Days and Holidays for Banks Practicing Saturday Closing.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 19-107, R. C. M. 1947, is amended to read as follows:

Legal holidays and business days defined.

"19-107. (10) **Legal holidays and business days defined.** The following are legal holidays in the state of Montana, to-wit: Every Sunday; the first day of January (New Year's Day); the twelfth day of February (Lincoln's Birthday); the twenty-second day of February (Washington's Birthday); the thirtieth day of May (Memorial Day); the fourth day of July (Independence Day); the first Monday of September (Labor day); the twelfth day of October (Columbus Day); the eleventh day of November (Veterans' Day); the twenty-fifth day of December (Christmas Day); every day on which a general election is held throughout the state and every day appointed by the president of the United States or by the governor of this state for a public fast, thanksgiving or holiday. If any of the holidays herein enumerated (except Sunday) fall upon a Sunday, the Monday following is a holiday. All other days than those herein mentioned are to be deemed business days for all purposes, except as herein provided.

Legal holidays.

Business days.

Exception.

"Whenever any bank in the state of Montana elects to remain closed and refrains from the transaction of busi-

HeinOnline -- 1965 10 1965

ness on Saturdays, pursuant to authority for permissive closing on Saturdays by virtue of the laws of the state, legal holidays for such bank during the year of such election are hereby limited to the following holidays, and no other holidays, viz.: Every Sunday, the first day of January (New Year's Day); the thirtieth day of May (Memorial Day); the fourth day of July (Independence Day); the first Monday of September (Labor Day); the twenty-fifth day of December (Christmas Day); and every day appointed by the president of the United States of America or by the governor of the state of Montana for a public fast, thanksgiving or holiday; provided, however, that any bank practicing Saturday closing in compliance with law may remain closed and refrain from the transaction of business on Saturdays, notwithstanding that a Saturday may coincide with a legal holiday other than one of the holidays designated above for banks practicing Saturday closing in compliance with law, *and provided further that it shall be optional for any bank, whether practicing Saturday closing or not, to observe as a holiday and to be closed on any day upon which a general election is held throughout the state of Montana and on the eleventh day of November (Veterans' Day) and on any local holiday which historically or traditionally or by proclamation of a local executive official or governing body is established as a day upon which businesses are generally closed in the community in which the bank is located.*" Optional holidays.

Approved February 1, 1965.

CHAPTER 7

An Act to Amend Sections 5-201 and 5-217, R. C. M. 1947, Relating to Articles of Incorporation of a State Bank and Amendments to Such Articles; and Providing That Articles of Incorporation and Amendments Thereto May Provide for a Flexible Number of Directors of a State Bank.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 5-201, R. C. M. 1947, be amended to read as follows: Amending clause.

HeinOnline -- 1965 11 1965

Organization and incorporation—articles of agreement.

"5-201. (6014.10) **Organization and incorporation—articles of agreement.** Any three or more persons, desiring to associate themselves together for the purpose of becoming a corporation to engage in any one or more or all of the businesses mentioned in this act, shall sign and acknowledge, in the manner provided for the acknowledgment of deeds of real estate, articles of agreement, which shall set forth:

Articles of agreement to set forth.

Corporate name.

1. The corporate name of the proposed corporation which shall not be the name of any other corporation theretofore granted and then doing business of a similar character in this state, or any imitation of such name. Provided that it shall be lawful to use the name theretofore used by any corporation previously incorporated and doing business in the state of Montana, but which has been dis-incorporated, liquidated, dissolved and entirely out of business.

Location.

2. The name of the city or town and county in which the principal office of the corporation is to be located.

Capital stock.

3. The amount of the capital stock of the corporation; the number of shares into which it is to be divided, and the par value of such shares; the amount of capital stock actually subscribed in good faith at the time of the signing of such articles of agreement; and the amount of the capital stock actually paid up in lawful money of the United States, and in the custody of some banking institution designated as the depository thereof until the proposed corporation is fully organized and authorized to engage in business.

Shareholders.

4. The names and places of residence of the several shareholders, and the number of shares subscribed by each.

Directors.
Board for the year.

5. The number of the board of directors, and the names of those agreed upon for the first year *and the articles may provide that the number of directors elected at each annual meeting, within the limits specified in this act, shall constitute the board for the year, all vacancies to be filled by the board taking the action, and also may provide that a majority of the full board of trustees may increase the number of the directors of the bank, not exceeding two (2), within the limits specified in this act, and appoint persons to fill the resulting vacancies between meetings of the stockholders.*

Vacancies.

Increase in number.

Appointments.

HeinOnline -- 1965 12 1965

6. The purpose for which the association or company is formed, which may be set forth by the use of the general terms herein defined, with reference to each line of business in which the proposed corporation desires to engage." Purpose.

Section 2. That section 5-217, R. C. M. 1947, be amended to read as follows: Amending clause.

"5-217. (6014.23) **Change in number of directors—procedure—approval by superintendent of banks.** Any state bank or trust company may increase or diminish the number of its directors *or may provide that the number of directors elected at each annual meeting, within the limits specified in this act, shall constitute the board for the year, all vacancies to be filled by the board taking the action, and also may provide that a majority of the full board of directors may increase the number of the directors of the bank, not exceeding two (2) within the limits specified in this act, and appoint persons to fill the resulting vacancies between meetings of the stockholders* by amending its articles of incorporation at any regular annual meeting or at any special meeting called and noticed for that purpose, of the stockholders of the bank or trust company, provided that the number of directors shall not at any time be less than three or more than eleven. Change in number of directors—procedure—approval. Board for the year. Vacancies. Increase in number. Appointments. Not less than 3 nor more than 11 directors.

Whenever any bank or trust company shall decide to call a special meeting of the stockholders for the purpose of amending its articles of incorporation relative to the number of directors, written or printed notice of such meeting must be deposited in the postoffice addressed to each stockholder of record entitled to vote at such meeting under the articles of incorporation or amendments thereto, and the laws and constitution of Montana, at his last known place of residence at least ten days previous to the date set for the holding of such meeting, and in addition, said notice must be published once a week for two consecutive weeks in a newspaper published in the county wherein the principal place of business of such corporation is situated. If no newspaper is published in the county it shall not be necessary to publish said notice; provided, however, that the matter of amending the articles of incorporation to change the number of directors may be submitted to and acted upon at any annual meeting of the stockholders without special notice thereof. Special meeting to amend articles. Notice by mail. Published notice.

HeinOnline -- 1965 13 1965

Certificate of compliance with act and agreement if stockholders having 2/3 of the total shares appear and vote in favor thereof.

If at the time and place specified in the notice of such special meeting or at the annual meeting of the stockholders, stockholders representing two-thirds of all the shares of stock of the corporation shall appear in person or by proxy and vote in favor of such amendment, a certificate of the proceedings showing a compliance of the provisions of this act and the *amendment relative to the number of directors* shall be prepared, certified and sworn to and filed with the superintendent of banks, who shall within thirty days after the receipt thereof either approve or reject the amendment. The action of the superintendent of banks on said amendment shall be final. If he approves the same, he shall notify the bank, whereupon the certificate with the superintendent's approval attached thereto shall be filed in the office of the county clerk and recorder of the county wherein the bank is situated, and a certified copy thereof shall be filed in the office of the secretary of state. Upon the filing of such certified copy with the secretary of state, the amendment shall become effective."

Action final.

Amendment effective—when.

Approved February 1, 1965.

CHAPTER 8

An Act Amending Section 66-512, R. C. M. 1947, to Increase the Maximum Fee for Renewal of Chiropractor's Licenses to Twenty-five Dollars ($25.00) and to Require Persons Licensed to Practice Chiropractic to Attend Annually an Education Program.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 66-512, R. C. M. 1947, is amended to read as follows:

Licensees to keep informed of new developments.

"66-512. One of the purposes of this act is to require each licensee to keep abreast of and informed about the developments and advances in the science of chiropractic, and, therefore, each license shall expire on the first day of September in each year, and shall be renewed then or thereafter, by the board, upon payment of a renewal fee of not less than five dollars ($5.00) nor more than *twenty-five dollars ($25.00)* as set by the state board of chiropractic examiners, and the presentation of evidence

License fee of not less than $5.00 nor more than $25.00.

HeinOnline -- 1965 14 1965

satisfactory to said board that the licensee, in the year preceding the application for renewal, attended *an educational program for chiropractors conducted by any school of chiropractic licensed to operate in the state of its location, or an educational program conducted by the state association of licensed chiropractors of any state, or an educational program approved by the state board of chiropractic examiners;* provided, that the board may grant renewals, but not consecutive renewals, upon a showing satisfactory to said board that attendance upon said educational programs was unavoidably prevented, provided that new licensees during the six (6) months preceding said September first, by examination, shall be granted renewal licenses without attending said educational programs, provided, that a failure to renew a license shall not prevent a licensee from subsequently applying for and receiving a license, as if there were no lapse of time between the expiration of the old license, and the granting of a renewal license; provided, that nothing herein shall prevent a renewal of said license if in said preceding year for any reason, at least one of the said educational programs is not conducted in the state of Montana."

Evidence of attending an educational program for chiropractors.

Renewal by examination.

Failure to renew a license does not bar a subsequent application.

Renewal if no educational program is conducted.

Approved February 2, 1965.

CHAPTER 9

An Act Amending Section 26-202.1, to Allow Certain Residents to Hunt Game Birds Without a License.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-202.1 (12) is amended to read as follows: "26-202.1. (12) *(a) A resident under the definition of section 26-202.3, R. C. M. 1947, who is seventy (70) years or older shall be entitled to fish without a Class A license and hunt game birds without a Class A-1 license. He shall carry proof of age in lieu of the license.*

Amending clause.

Resident over 70 may fish and hunt game birds without license.

(b) A child residing at the Montana children's center at Twin Bridges and the committed residents of the Montana training center at Boulder will be entitled to fish without a license. He shall carry a written statement by the superintendent of the center in lieu of the license.

Child residents of Montana children's center and committed residents of Montana training center may fish without license.

(c) If a person is convicted of a violation of the fish and game laws or regulations of Montana, the privilege

Violation—revocation.

HeinOnline -- 1965 15 1965

conferred by this subsection shall be revoked for not less than six (6) months."

Approved February 3, 1965.

CHAPTER 10

An Act to Establish the Policy of the State of Montana on Protection of Fishing Streams; Providing for Submission of Plans for Construction and Hydraulic Projects Affecting Such Streams to the Montana Fish and Game Commission and for Review of Such Plans; and Providing for Arbitration of Disagreements Between the Fish and Game Commission and the Agency Proposing Such Projects.

Be it enacted by the Legislative Assembly of the State of Montana:

Policy.

Section 1. It is hereby declared to be the policy of the state of Montana that its fish and wildlife resources and particularly the fishing waters within the state are to be protected and preserved to the end that they be available for all time, without change, in their natural existing state except as may be necessary and appropriate after due consideration of all factors involved.

State agency will not engage in a project modifying a stream without giving notice to the fish and game commission.

Section 2. An agency of state government, county, municipality, or other subdivision of the state of Montana, hereafter called applicant, shall not construct, modify, operate, maintain, or fail to maintain, any construction project or hydraulic project which may or will obstruct, damage, diminish, destroy, change, modify, or vary the natural existing shape and form of any stream or its banks or tributaries by any type or form of construction without first causing notice of such planned construction to be served upon the Montana fish and game commission, on forms furnished by the fish and game commission as soon as preliminary plans are completed, but not less than sixty (60) days prior to commencement of final plans for construction. Such notice shall include detailed plans and specifications of so much of said project as may or will affect in any manner specified above any such stream.

Notice not less than 60 days prior to final plans.

Investigation by commission.

Section 3. The commission shall promptly examine and investigate all such plans. Should the commission

HeinOnline -- 1965 16 1965

determine the plans and specifications furnished with any such application technically insufficient the commission shall not notify the applicant, and may render aid in preparing adequate plans and specifications.

Commission will notify applicant within 30 days of receipt of plans.

Section 4. Within thirty (30) days after the receipt of such plans, the commission shall notify the applicant whether or not such construction project or hydraulic project will adversely affect any fish or game habitat. If the fish and game commission notifies the applicant that such construction will adversely affect any fish or game habitat, it shall accompany such notice with recommendations or alternative plans which will eliminate or diminish such adverse effect.

Notice of refusal to modify plans.

Section 5. (1) If the fish and game commission notifies the applicant that the construction will adversely affect fish or game habitat, the applicant, within fifteen (15) days after receiving the recommendations and alternatives of the fish and game commission, shall notify the fish and game commission if it refuses to modify its plans in accordance with such recommendations or alternatives. In the event of such refusal, the disagreement shall be arbitrated as provided in subsection (2) of this section.

Arbitration.

Request for arbitration board.

(2) Upon receipt of such notice of refusal, the fish and game commission shall determine if its wants the disagreement arbitrated. Within ten (10) days after an affirmative determination, and after notice to the other agency or agencies involved, the fish and game commission shall notify, in writing, all district judges of the judicial district or districts in which the project is located that an arbitration board is needed. Within five (5) days of receipt of notification, such judges shall appoint three (3) people from the county or counties in which the project is located to an arbitration committee. Within ten (10) days after the committee is appointed, it shall meet, hear testimony from all the agencies concerned, and issue a decision signed by at least two (2) members of the committee. The decision shall be binding on all parties concerned. The actual and necessary expenses of the arbitrators shall be divided equally among the agencies involved.

Appointment by district court judges.

Meeting. Decision.

Expenses.

Exclusions.

Section 6. This act shall not operate or be so construed as to impair, diminish, divest, or control any existing or vested water rights under the laws of the state of Mon-

HeinOnline -- 1965 17 1965

tana or the United States, or in emergencies such as floods, ice jams or other conditions causing emergency handling.

Irrigation projects excluded.

Section 7. This act shall not apply to any state water conservation board irrigation project presently operating, or that may be constructed in the future or to any irrigation district project or any other irrigation project.

Approved February 8, 1965.

CHAPTER 11

An Act to Amend Section 26-201, Revised Codes of Montana, 1947, as Amended by Chapter 34, Session Laws of 1959, Relating to Definitions; Removing Canada Lynx from Fur-bearing List; Containing a Repealing Clause; and Providing for Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 26-201, Revised Codes of Montana, 1947, as amended by Chapter 34, Laws of 1959, be, and the same is hereby amended to read as follows:

Definitions.

"26-201. (3681) **Definitions.** For the purpose of this act, the following shall be construed, respectively to mean:

Commission.

Commission. *The* state fish and game commission.

Person.

Person. The plural or singular, male or female, as the case demands, including individual, associations, partnerships, and corporations, unless the context otherwise requires.

Open season.

Open season. The time during which game birds, fish, game and furbearing animals may be lawfully taken.

Closed season.

Closed season. The time during which game birds, fish, game and furbearing animals may not be lawfully taken.

Angling or fishing.

Angling or fishing. The taking of, or attempting to take fish by hook and line or rod in hand.

Upland game birds.

Upland game birds. Sharptail grouse, blue grouse, prairie chicken, sage hen or sage grouse, fool hen, ruffed grouse, commonly called native pheasant or native part-

HeinOnline -- 1965 18 1965

ridge, quail, Chinese pheasant and Mongolian pheasant, commonly called ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

Migratory game birds. Waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown, sandhill and whooping cranes; rails, including coots, gallinules, sora or other rails; shore birds, including avocets, curlew, dowitcher, godwits, knots, upland plover, killdeer, sandpipers, Wilson snipes or jacksnipes, snipes, stilts, plovers, willets and yellow legs. Migratory game birds.

Nongame birds. All wild birds not defined herein as upland game birds or migratory game birds, shall be deemed nongame birds. Nongame birds.

Game animals. Deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, bear and bison or buffalo. Game animals.

Furbearing animals. Marten or sable, otter, muskrat, fisher, mink, beaver and black-footed ferret. Furbearing animals.

Predatory animals. Coyote, wolf, wolverine, mountain lion, weasel, skunk and civetcat, and bobcat. Predatory animals.

Game fish. All species of the family salmonidae (chars, trout, and salmon); all species of the family thymallidae (grayling); all species of the family coregonidae (whitefish); all species of the genus stizostedion (sandpike or sauger and walleyed pike or yellow pike perch); all species of the genus esox (northern pike, pickerel, and Muskellunge); all species of the genus micropeterus (bass)." Game fish.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect after its passage and approval. Effective immediately.

Approved February 8, 1965.

CHAPTER 12

An Act Authorizing the State Fish and Game Commission to Issue Special Nonresident Antelope and Special Nonresident Deer Licenses, Fixing the Fees, and Pow-

HeinOnline -- 1965 19 1965

ers and Duties Under Such Licenses; Containing an Expiration Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Special nonresident antelope and deer licenses.

Section 1. The state fish and game commission may issue special nonresident antelope licenses and special nonresident deer licenses as provided for in subsection 15 of section 26-104, Revised Codes of Montana, 1947, as amended. Such special licenses will be valid only for the area designated in the license, and shall expire annually on the thirty-first (31st) day of December. In counties of the first congressional district as they exist on January 1, 1965, such special licenses shall be issued only in areas which are not open to the hunting of elk. In areas where ten (10) or more written complaints from persons in the area involved, relating to the issuance of special nonresident deer and antelope permits, have been received by the fish and game department, a hearing at the county seat nearest to the area concerned must be held by representatives of the fish and game department where public protests will be heard. Such written complaints must be received within thirty (30) days after first announcement of seasons by the fish and game commission on or before the first (1st) day of August. Notice of such hearing shall be published in at least four (4) issues of local newspapers and by radio stations in the area concerned at least thirty (30) days prior to the date of the hearing. The fee for a special nonresident deer license shall be twenty dollars ($20.00) and the fee for a special nonresident antelope license shall be twenty dollars ($20.00). Not more than one (1) special nonresident deer license, and one (1) special nonresident antelope license shall be issued in any one (1) year to a nonresident. The tagging of game carcasses, as required by law, shall apply to all persons who purchased the special nonresident licenses herein provided. There shall be attached to each special nonresident antelope or deer license a permit which will authorize the holder thereof to ship or transport out of the state one (1) carcass of an animal for which such license was issued.

Areas—expiration.

Complaints—hearings.

Publication of notice.

Fees.

Tagging.

Shipping permit.

Effective until December 31, 1966.

Section 2. This act shall remain in full force and effect until December 31, 1966.

Approved February 12, 1965.

HeinOnline -- 1965 20 1965

CHAPTER 13

An Act Declaring It Unlawful to Ship or Take Out of the State Any Aquatic Insects for Speculative Purposes, for Market or for Sale.

Be it enacted by the Legislative Assembly of the State of Montana:

Unlawful to take aquatic insects out of the state for speculative purposes or sale.

Section 1. It is hereby declared to be unlawful and a misdemeanor, punished as provided by section 26-324, R. C. M. 1947, for any person or persons, to ship or take out of the state any aquatic insects for speculative purposes, for market or for sale. This section shall not apply to aquatic insects caught in private ponds by the owners thereof.

Exclusion.

Approved February 12, 1965.

CHAPTER 14

An Act to Provide the State Fish and Game Commission Authority to Enter Into Reciprocity Agreements With Any Neighboring State for the Mutual Licensing of Fishermen on Any Part of Lakes and Reservoirs Within or Partly Within Ten (10) Miles of State Boundaries.

Be it enacted by the Legislative Assembly of the State of Montana:

Person licensed to fish in state bordering Montana may fish in body of water within 10 miles of boundaries of this state.

Section 1. Any person who is properly licensed to fish in a state which borders the state of Montana and who complies with Montana fish and game laws and regulations may fish in any part of a lake, reservoir, pond or body of water in Montana that lies within or partly within ten (10) miles of the boundaries of this state, when such water is declared to be open to fishing by the state fish and game commission, provided, however, that such bordering state grants the same or similar privileges in any such body or bodies of water or in all lakes, reservoirs, ponds or bodies of water similarly defined within its boundaries to holders of valid Montana fishing licenses, and provided further that such state enters into a reciprocal agreement with Montana setting forth terms as provided by this act. The state fish and game commission is authorized to enter into reciprocal agreements with corresponding state officials of adjoining states for purposes of providing such reciprocal fishing privileges

Reciprocity of privilege.

Reciprocal agreement.

HeinOnline -- 1965 21 1965

upon any body or bodies of water as described above. Such agreements may include provisions by which each state shall honor the license of the other state only when there is affixed to such license a stamp purchased from the honoring state, the charge for such stamp being set by mutual agreement of the states.

Provisions.

Section 2. The state fish and game commission may, by regulation, authorize use of by properly licensed fishermen of both states, of fishing devices and equipment, unless otherwise prohibited by Montana law, in waters forming the subject of such agreements.

Authorization of fishing equipment.

Section 3. It is the primary purpose of this section to provide a method whereby the fishing opportunities afforded upon any part of any body of water located within or partly within ten (10) miles of the boundaries of this state may be mutually enjoyed by the residents of Montana and the residents of such adjoining states and it is not intended to cover the waters of rivers or streams.

Purpose—rivers or streams excluded.

Section 4. The state fish and game commission is hereby authorized to establish rules and regulations for the purpose of implementing said agreements. Any person violating any orders or regulations promulgated by the state fish and game commission under this act shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished as provided in section 26-324, R. C. M. 1947.

Rules and regulations.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved February 12, 1965.

CHAPTER 15

An Act to Amend Subsection (a) of Section 47-210, R. C. M. 1947, Relating to the Maximum Rates of Charge Under the Montana Consumer Loan Act and to Amend Section 47-214, R. C. M. 1947, Relating to Insurance and Authorizing That Credit Life Insurance May Be Provided by a Licensee and Providing Conditions Concerning Such Insurance.

HeinOnline -- 1965 22 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Subsection (a) of section 47-210, R. C. M. 1947, is amended to read as follows: Amending clause.

"47-210. (a) **Maximum rate of charge.** Every licensee hereunder may contract for and receive, on any loan of money not exceeding one thousand dollars ($1,000) in *principal* amount, charges *at rates* not in excess of twenty dollars ($20) per year *per* one hundred dollars ($100) on that part *of the principal amount* of the loan not exceeding three hundred dollars ($300); sixteen dollars ($16) per year per one hundred dollars ($100) on that part *of the principal amount* of the loan exceeding three hundred dollars ($300) but not exceeding five hundred dollars ($500), and twelve dollars ($12) per year per one hundred dollars ($100) on that part *of the principal amount* of the loan in excess of five hundred dollars ($500) but not exceeding one thousand dollars ($1,000). *Said charges shall be computed at the aforesaid rates on the full, original principal amount of the loan from the date of the loan to the due date of the final scheduled installment irrespective of the fact that the loan is payable in installments.* Said charges shall be added to the principal of the loan and shall not be discounted or deducted therefrom nor paid or received at the time the loan is made. For the purpose of computing charges for a fraction of a month, a day shall be considered one-thirtieth of a month." Maximum rate of charge. Computation of charges.

Section 2. Section 47-214, R. C. M. 1947, is amended to read as follows: Amending clause.

"47-214. **Insurance written with loans — types and limitation thereon—delivery of insurance policy.** (a) No insurance of any kind shall be written by a licensee, or employee, affiliate or associate of the licensee in connection with any loan *except as hereinafter provided.* Insurance policies.

(b) Insurance permitted under the provisions of this section shall be obtained through an insurance company authorized to conduct such business in Montana by a duly licensed agent or agency of this state. Premiums shall not exceed those fixed by law or current applicable manual rates. Insurance written, as authorized by this section, may contain a mortgagee clause or other appropriate provisions to protect the insurable interest of the licensee. Insurance requirements.

HeinOnline -- 1965 23 1965

Property insurance.

(c) **Property insurance.** When the principal amount of the loan exceeds three hundred dollars ($300) exclusive of the portion thereof attributable to insurance premiums and charges, the licensee may require a borrower to insure tangible personal property offered as security against any substantial risk of loss, damage or destruction for an amount not to exceed the reasonable value of the property insured or the amount of the loan, which ever is smaller, and for the customary term approximating the term of the loan contract. It shall be optional with the borrower to obtain such insurance in an amount greater than the amount of the loan or for a longer term.

Credit life insurance.

(d) Credit life insurance. Subject to the laws of this state, credit life insurance may be provided at the expense of the borrower and may be written by a licensee upon the request of the borrower when the principal amount of the loan exceeds three hundred dollars ($300) exclusive of the portion thereof attributable to insurance premiums and charges. If any loan shall include amounts advanced for insurance premiums and charges such loan shall not in any event exceed one thousand dollars ($1,000).

Insurance —charge —agent.

(e) The insurance authorized by this section may be sold, obtained or provided by or through a licensee and the premium or identifiable charge for the insurance may be included in the principal amount of the loan; provided, however, that no licensee shall require a borrower to purchase such insurance from such licensee or from any particular agent, broker or insurance company as a condition precedent for the obtaining of a loan. Any gain or advantage to the licensee or any employee, affiliate or associate of the licensee from the sale, provision or obtaining of insurance as authorized by this section shall not be deemed to be additional charges or a violation of this act.

Existing insurance.

A licensee shall not require insurance under this section until any existing insurance of the same type has expired or has been canceled and the unearned portion of the premium for the canceled insurance has been rebated to the borrower."

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved February 12, 1965.

HeinOnline -- 1965 24 1965

CHAPTER 16

An Act to Amend Section 16-1001, R. C. M., 1947, Relating to Powers of Supervision of Boards of County Commissioners; Providing That the Board of County Commissioners May, in Its Discretion, Pay Proper Charges for Insurance Providing Indemnity to Any County Officer Against Liability for Loss, Without Fault, of Money, Securities, or Other Property; Repealing Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-1001, R. C. M., 1947, is amended to read as follows: Amending clause.

"16-1001. **Powers of supervision.** The board of county commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law: Powers of supervision.

"To supervise the official conduct of all county officers, and officers of all districts and other subdivisions of the county, charged with assessing, collecting, safe keeping, management or disbursement of the public revenues; see that they faithfully perform their duties, direct prosecutions for delinquencies, and when necessary require them to renew their official bonds; to make reports and to present their books and accounts for inspection; *and it may, in its discretion pay a proper charge to any insurance company authorized to do business in this state for effecting insurance providing indemnity for, or protection to, any county officer against his liability for the loss, without fault, connivance or neglect on his part, of money, securities or other property, for which he is accountable to the county.*" Insurance.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved February 12, 1965.

CHAPTER 17

An Act Amending Section 16-3101, R. C. M. 1947, to Make County Attorneys Counsel for Fire Districts in Unincorporated Territories, Towns or Villages.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1965 25 1965

Amending clause.

Section 1. Section 16-3101, R. C. M. 1947, is amended to read as follows:

Duties of county attorney.

"16-3101. **Duties of county attorney.** The county attorney is the public prosecutor, and must:

Prosecutions.

1. Attend the district court and conduct, on behalf of the state, all prosecutions for public offenses and represent the state in all matters and proceedings to which it is a party, or in which it may be beneficially interested, at all times and in all places within the limits of his county;

Arrest.

2. Institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that such offenses have been committed, and for that purpose, whenever not otherwise officially engaged, must attend upon the magistrate in cases of arrest, and attend before and give advice to the grand jury, whenever cases are presented to them for their consideration;

Indictments, informations and defense of state.

3. Draw all indictments and informations, defend all suits brought against the state or his county, prosecute all recognizances forfeited in the courts of record, and all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or his county;

Receive money or property.

4. Deliver receipts for money or property received in his official capacity, and file duplicates thereof with the county treasurer;

Account.

5. On the first Monday of January, April, July, and October, in each year, file with the county clerk an account, verified by his oath, of all moneys received by him in his official capacity during the preceding three months, and at the same time pay it over to the county treasurer;

Opinions.

6. Give when required, and without fee, his opinion in writing to the county, district, and township officers, on matters relating to the duties of their respective offices;

Counsel for fire districts.

7. Act as counsel, without fee, for fire districts in unincorporated territories, towns or villages within his county;

Register.

8. Keep a register of all official business, in which must be entered a note of every action, whether criminal

HeinOnline -- 1965 26 1965

or civil, prosecuted officially, and of the proceedings therein.

9. When ordered or directed by the attorney general so to do, to promptly institute and diligently prosecute in the proper court, and in the name of the state of Montana, any criminal or civil action or special proceeding, it being hereby declared that the supervisory powers granted to the attorney general by section 82-401 (5), include the power to order and direct said county attorneys in all matters pertaining to the duties of their office." As directed by attorney general.

Approved February 12, 1965.

CHAPTER 18

An Act to Amend Section 16-1015, R. C. M. 1947, Relating to the Powers and Duties of County Commissioners to Levy an Annual Tax on the Taxable Property of the County to Defray Current Expenses, Including Salaries Not Otherwise Provided for, Not Exceeding Sixteen (16) Mills for Any One (1) Year and to Levy Such Taxes as Are Required by Special or Local Statutes; and Providing for an Additional Levy of Four (4) Mills for a Prescribed Period.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-1015, R. C. M. 1947, is amended to read as follows: Amending clause.

"16-1015. **Taxation.** The board of county commissioners has jurisdiction and power under such limitations and reservations as are prescribed by law: To levy such tax annually on the taxable property of the county, for county purposes as may be necessary to defray the current expenses thereof, including the salaries otherwise unprovided for, not exceeding sixteen (16) mills, except as hereinafter provided, on each dollar of the taxable valuation for any one (1) year to levy such taxes as are required to be levied by special or local statutes. Provided, however, that on and after July 1, *1965,* and extending to June 30th, *1967,* the board of county commissioners is authorized in its discretion to levy an additional Taxation. Additional tax.

HeinOnline -- 1965 27 1965

four (4) mills on each dollar of the taxable valuation for any one (1) year, provided, however, after that period of time the levy of sixteen (16) mills shall still be in effect."

Approved February 12, 1965.

CHAPTER 19

An Act to Amend Section 11-2226, R. C. M. 1947, Which Authorizes a City Council to Order Construction of Sidewalks and Curbs Without the Formation of a Special Improvement District; by Providing That a City Council May Order Construction of Sidewalks, Curbs and Gutters, or Any Combination Thereof, Without the Formation of a Special Improvement District.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-2226, R. C. M. 1947, is hereby amended to read as follows:

Construction of improvements without formation of special improvement district.

"11-2226. (5244) **Construction of sidewalks, curbs** *and gutters* **without formation of special improvement district.** The city council may order sidewalks, curbs *and gutters, or any combination thereof,* constructed in front of any lot or parcel of land without the formation of a special improvement district, and whenever the council shall order any such sidewalk, curb *and gutter, or any combination thereof* constructed, such order shall be entered upon the minutes of the council and shall name the street along which said sidewalk, curb *and gutter, or any combination thereof,* is to be constructed. After the making of such order, written notice thereof shall be given the owner or agent of such property, in such manner as the council may direct. If the owner or agent of such lot or parcel of land shall fail or neglect for a period of thirty days after the date of service of such notice to cause such sidewalk, curb *and gutter, or any combination thereof,* to be constructed, the city may construct or cause such sidewalk, curb *and gutter, or any combination thereof,* to be constructed, and shall assess the cost thereof, including engineering costs and the costs enumerated in section 11-2228 of this code, against the property in front of which the same is constructed.

HeinOnline -- 1965 28 1965

When any such sidewalk, curb *and gutter, or any combination thereof,* is constructed by or under direction of the city council, payment for the construction thereof shall be made by special warrants in such form as may be prescribed by ordinance drawn against a fund to be known as special sidewalk, curb *and gutter* fund, which warrants shall bear interest at the rate of six per centum (6%) per annum, and the council may provide for the payment of said interest annually. Payment.

The payment of assessments to defray the cost of construction of said sidewalks, curbs *and gutters, or any combination thereof,* may be spread over a term of not to exceed eight years, payment to be made in equal annual installments. Assessments.

The city council shall annually, and before the first Monday of October of each year, pass and adopt a resolution levying an assessment and tax against each lot or parcel of land in front of which sidewalks, curbs *and gutters, or any combination thereof,* have been constructed under orders of the city council. Said resolution levying such assessment shall be in every manner prepared and certified the same as resolutions levying assessments for the making of improvements in special improvement districts." Resolution.

Approved February 12, 1965.

CHAPTER 20

An Act Authorizing the Use of Electronic Voting Systems by Counties, Cities and Towns.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The purpose of this act is to authorize the use of electronic voting systems in which the voter records his votes by means of marking or punching a ballot or one or more ballot cards, which are so designated that votes may be counted by data processing machines at one or more counting places. Purpose—electronic voting systems.

Section 2. As used in this act, unless otherwise specified:

HeinOnline -- 1965 29 1965

"Automatic tabulating equipment."

(a) "Automatic tabulating equipment" includes apparatus necessary to automatically examine and count votes as designated on ballots and data processing machines which can be used for counting ballots and tabulating results.

"Ballot card."

(b) "Ballot card" means a ballot which is voted by the process of punching.

"Ballot labels."

(c) "Ballot labels" means the cards, papers, booklet, pages or other materials containing the names of offices and candidates and statements of measures to be voted on.

"Ballot."

(d) "Ballot" may include ballot cards, ballot labels and paper ballots.

"Counting location."

(e) "Counting location" means a location selected by the county clerk and recorder or city clerk for the automatic processing or counting, or both, of ballots.

"Electronic voting system."

(f) "Electronic voting system" means a system of casting votes by use of marking devices and tabulating ballots employing automatic tabulating equipment or data processing equipment.

"Marking device."

(g) "Marking device" means either an apparatus in which ballots or ballot cards are inserted and used in connection with a punch apparatus for the piercing of ballots by the voter or any approved device for marking a paper ballot with ink or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment.

Electronic voting system—use.

Section 4. (a) Electronic voting systems may be used in elections, provided that such systems enable the voter to cast a vote in secrecy for all offices and all measures on which he is entitled to vote, and that the automatic tabulating equipment may be set to reject all votes for any office or measure when the number of votes therefor exceeds the number which the voter is entitled to cast, or when the voter is not by law entitled to cast a vote for the office or measure.

Primary elections.

(b) Electronic voting systems may be used at primary elections provided the voter can secretly select the party for which he wishes to vote, and the automatic tabulating equipment will count only votes for the candidates of one party, and will reject all votes for an office when the number of votes therefor exceeds the number which the

HeinOnline -- 1965 30 1965

voter is entitled to cast, and will reject all votes of a voter cast for candidates of more than one party.

Procedure.

(c) So far as applicable, the procedure provided for voting paper ballots shall apply.

Governing body may determine use.

(d) The governing body of any county, city or town may adopt, experiment with, or abandon any electronic voting system herein authorized and approved for use in the state, and may use such system in all or a part of the precincts within its boundaries, or in combination with paper ballots. It may enlarge, consolidate or alter the boundaries of the precincts where an electronic voting system is to be used.

Voting booths.

Section 5. (a) In precincts where an electronic voting system is used, a sufficient number of voting booths shall be provided for the use of such systems, and the booths shall be arranged in the same manner as provided for use with paper ballots.

Sample ballots.

(b) The officials charged with the duty of providing ballots, ballot cards or ballot labels for any polling place shall provide therefor sample ballots, ballot cards or ballot labels which shall be exact copies of the official ballots which are caused to be printed by them; said sample ballots shall be arranged in the form of a diagram showing the front of the marking device as it will appear after the ballots are arranged therein for voting on election day. Such sample ballots shall be posted by the election judges near the entrance of the voting booths and shall be there open to public inspection during the whole of election day.

Ballot information.

(c) The ballot information, whether placed on the ballot or on the marking device, shall, as far as practicable, be in the order of arrangement provided for paper ballots except that such information may be in vertical or horizontal rows, or on a number of separate pages. Ballots for all questions must be provided in the same manner and must be arranged on or in the marking device in the places provided for such purpose. Any voter who spoils his ballot or ballot card or makes an error may return it to the election board and secure another.

Write-in ballot.

(d) A separate write-in ballot, which may be in the form of a paper ballot, card or envelope in which the elector places his ballot card after voting shall be pro-

HeinOnline -- 1965 31 1965

vided where necessary to permit electors to write in the names of persons whose names are not on the ballot.

Marking devices.

(e) The county clerk and recorder or city clerk shall cause the marking devices to be put in order, set, adjusted and made ready for voting when delivered to the election precincts. Before the opening of the polls the election judges shall compare the ballots used in the marking device with the sample ballots furnished, and see that the names, numbers and letters thereon agree, and shall certify thereto on forms provided for this purpose. The certification shall be filed with the election returns.

Testing of automatic tabulating equipment.

(f) Within five days prior to the election day, the county clerk and recorder or city clerk shall have the automatic tabulating equipment tested to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least forty-eight (48) hours prior thereto by publication once in one or more daily or weekly newspapers published in the county, city or town using such equipment, if a newspaper is published therein, otherwise in a newspaper of general circulation therein. The test shall be open to representatives of the political parties, candidates, the press and the public. The test shall be conducted by processing a preaudited group of ballots so punched or marked as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment is approved. The test shall be repeated immediately before the start of the official count of the ballots, in the same manner as set forth above. After the completion of the count, the programs used and ballots shall be sealed, retained and disposed of as provided for paper ballots.

Notice by publication.

Open test.

Detection of error.

Marking devices secured.

Section 6. (a) In precincts where an electronic voting system is used, as soon as the polls are closed, the election judges shall secure the marking devices against further voting. They shall thereafter open the ballot box

HeinOnline -- 1965 32 1965

and count the number of ballots or envelopes containing ballots that have been cast to determine that the number of ballots does not exceed the number of voters shown on the poll or registry lists. If there is an excess, this fact shall be reported in writing to the appropriate election officer in charge with the reasons therefor, if known. The total number of voters shall be entered on the tally sheets. The election judges shall thereupon count the write-in votes and prepare a return of such votes on forms provided for this purpose. If ballot cards are used, all ballots on which write-in votes have been recorded shall be serially numbered, starting with the number one, and the same number shall be placed on the ballot card of the voter. The inspectors or other appropriate precinct election officials shall compare the write-in votes with the votes cast on the ballot card and if the total number of votes for any office exceeds the number allowed by law, a notation to that effect shall be entered on the back of the ballot card and it shall be returned to the counting location in an envelope marked "defective ballots" and such invalid votes shall not be counted. So far as applicable, provisions relating to defective paper ballots shall apply.

Write-in votes.

(b) The election judges shall place all ballots that have been cast in the container provided for that purpose, which shall be sealed and delivered forthwith by the election judges to the counting location or other designated place, together with the unused, void and defective ballots and returns.

Ballots delivered to counting location.

(c) All proceedings at the counting location shall be under the direction of the county clerk and recorder or city clerk under the observation of at least three election judges designated by the county commissioners, city council or commission and shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot, ballot container or return. If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. Likewise, a duplicate ballot shall be made of a defective ballot which shall not include the invalid votes. All duplicate ballots shall be clearly labeled "duplicate," shall bear a serial number which shall be

Counting location —proceedings.

Damaged ballot.

HeinOnline -- 1965 33 1965

recorded on the damaged or defective ballot and shall be counted in lieu of the damaged or defective ballot.

Printed return.

(d) The return printed by the automatic tabulating equipment, to which has been added the return of write-in and absentee votes, shall constitute the official return of each precinct or election district. Upon completion of the count the returns shall be open to the public.

Secretary of state may promulgate rules.

Section 7. (a) The secretary of state may promulgate rules for the administration of this section, and shall approve the marking devices and automatic tabulating equipment used in electronic voting systems.

Requirements.

(b) No marking device or automatic tabulating equipment shall be approved unless it fulfills the following requirements:

Secrecy.

(1) It shall permit and require voting in absolute secrecy.

Voting.

(2) It shall permit each elector to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote, and no others; to vote for as many persons for an office as he is entitled to vote for; to vote for or against any question upon which he is entitled to vote; and to vote, where applicable, for all candidates of one party or to vote a split ticket as he desires.

Presidential elections.

(3) It shall permit each elector, at presidential elections, by one punch or mark to vote for the candidates of that party for presidential elector as a group.

Election laws.

(4) It shall comply with all other requirements of the election laws so far as they are applicable.

Penalties.

Section 8. All laws of this state applicable to elections where voting is done in another manner than by electronic voting systems and all penalties prescribed for violation of such laws, shall apply to elections and precincts where electronic voting systems are used, in so far as they are not in conflict with the provisions of this act.

Approved February 13, 1965.

CHAPTER 21

An Act Extending the Time to File a Declaration of Vested Ground Water Rights, and Amending Section

HeinOnline -- 1965 34 1965

3, Chapter 237, Laws of 1961, Compiled as Section 89-2913, R. C. M. 1947. .

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 3, chapter 237, laws of 1961, compiled as section 89-2913, R. C. M. 1947, is amended to read as follows:

Forms for filing.

"89-2913. (a) The administrator shall prepare and publish forms for the filing by appropriators with the county clerks. They shall be known as a 'notice of appropriation' and a 'notice of completion', respectively. The notice of appropriation shall require, and provide space for, answers to such questions as: (1) the name and address of the appropriator; (2) the beneficial use for which the appropriation is made, including a description of the lands to be benefited if for irrigation; (3) the rate of use in gallons per minute of ground water claimed; (4) the annual period (inclusive dates) of intended use; (5) the probable or intended date of first beneficial use; (6) the probable or intended date of commencement and completion of the well or wells; (7) the location, type, size and depth of the well or wells contemplated; (8) the probable or estimated depth of the water table or artesian aquifer; (9) the name, address and license number (if any) of the driller engaged; and (10) such other similar information as may be useful in carrying out the policy of this act.

Notice of appropriation.

Notice of completion.

The notice of completion shall require answers to the same sort of questions as required for the notice of appropriation, except that for the most part it shall inquire as to accomplished facts concerning the well or means of withdrawal, including information as to the static level of water in the casing or the shut-in pressure if the well flows naturally; the capacity of the well in gallons per minute by pumping or by natural flow; the approximate draw down or pumping level of the well; the approximate surface elevation at the well head; the casing record of the well; the drilling log showing the character and thickness of all formations penetrated; the depth to which the well is drilled; and similar information.

Special notice of completion—where no well.

For the benefit of persons obtaining (or desiring to obtain) ground water without a well (as by subirrigation and other natural processes) a specially prepared 'notice of completion' shall be provided, enabling such persons

HeinOnline -- 1965 35 1965

to describe the means of using ground water and to estimate the amount of water so used, and requiring such other similar information as shall be pertinent to this particular class of user. The administrator shall distribute said forms to the county clerks.

Notice of appropriation filed with county clerk.

(b) On and after January 1, 1962, any person desiring to appropriate ground water may complete a notice of appropriation and file it with the county clerk of the county in which the appropriation is located.

Clerk shall transmit copies.

(c) Upon the filing of a notice of appropriation, the county clerk shall transmit a copy thereof to the administrator, and to the Montana bureau of mines and geology, retaining the original on file locally.

Well construction must commence within 90 days.

(d) After filing a notice of appropriation, in order to acquire a right based thereon, the person must, within ninety (90) days, commence actual excavation and diligently prosecute construction of a well and, upon its completion, file a notice of completion with the county clerk of the county in which the appropriation is located. The county clerk shall handle and transmit such filed notices as in the case of a filed notice of appropriation.

Notice of completion filed with county clerk.

Effect—failure to file.

(e) A failure to file a notice of appropriation deprives the appropriator of his right to relate his date of appropriation back, and results in the dating of his appropriation as of when he files a notice of completion. Until a notice of completion is filed with respect to any use of ground water instituted after January 1, 1962, no right to that use of water shall be recognized. However, in the case of uses instituted prior to January 1, 1962 and diligently prosecuted to completion on or after that date, the date of appropriation shall relate back to the date of commencement of construction, upon the filing of a notice of completion.

Relation back.

Filing under oil and gas laws deemed compliance.

(f) Persons required to file well logs and other information under the laws governing the conservation of oil and gas and who do so in compliance therewith, shall be deemed to have complied with all of the filing requirements of this act in so far as it applies to such particular oil and gas wells, salt water disposal wells, and injection wells. The date of appropriation is such cases shall be the date that written notice of intention to drill is given to the oil and gas conservation commission of the state of Montana.

HeinOnline -- 1965 36 1965

Driller responsible.

(g) It shall be the responsibility of the driller of each well to fill out the notice of completion for the appropriator, and the latter shall be responsible for its filing.

Declaration of vested ground-water rights filed when.

(h) Persons who have put ground water to a beneficial use, including subirrigation or other natural process, prior to January 1, 1962, shall, within *four (4)* years after January 1, 1962, file a declaration in the office of the county clerk of the county in which the claimed right is situated. The declaration shall be made on a form known as a 'declaration of vested ground water right' and shall contain the following information: (1) the name and address of the claimant; (2) the beneficial use on which the claim is based; (3) the date or approximate date of the earliest beneficial use, and how continuous the use has been; (4) the amount of ground water claimed; (5) if the beneficial use has been for irrigation, the acreage and description of the lands to which such water has been applied and the name of the owner thereof; (6) the means of withdrawing such water from the ground and the location of each well or other means of withdrawal; (7) the date of commencement and completion of the construction of the well, wells or other works for withdrawal of ground water; (8) the depth of water table; (9) so far as it may be available, the type, size and depth of each well or the general specifications of any other works for the withdrawal of ground water; (10) the estimated amount of ground water withdrawn each year; (11) the log of the formations encountered in the drilling of each well; and (12) such other information of a similar nature as may be useful in carrying out the policy of this act.

Form.

Clerk shall transmit copies.

The county clerk shall transmit copies to the office of the administrator, and the bureau of mines and geology. The administrator shall attend to filing copies in any other counties affected by the appropriation.

Evidence.

The declaration of vested ground water rights herein provided for shall be taken and received in all courts of this state as prima facie evidence of the statements therein contained.

Effect of noncompliance.

Failure to comply with this requirement shall in no wise work a forfeiture of such rights, or prevent any such claimant from establishing such rights in the courts, but he must maintain the burden of proving such unrecorded

HeinOnline -- 1965 37 1965

rights. Provided, however, that persons who have filed the water well log form, provided for in sections 1 and 2 of chapter 58, session laws of Montana, 1957, shall be deemed to have complied with the requirements of this section. These latter forms may be returned to the county clerks by the administrator for the purpose of correction or for the entry of material facts necessary to fully complete the filing."

Approved February 18, 1965.

CHAPTER 22

An Act to Amend Section 69-1802, Revised Codes of Montana, 1947, to Include Boarding and Nursing Homes for Aged Persons in Those Buildings Covered by the Provisions of Chapter 18 of Title 69, Revised Codes of Montana, 1947, Relating to Fire Safety Requirements and Inspection.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 69-1802, Revised Codes of Montana, 1947, be amended to read as follows:

Application of act.

"69-1802. **Application of act.** This act shall apply to hotels, night clubs, boarding or rooming houses, apartments, dormitories, office buildings, theaters, gymnasiums, any place of public amusement or used for public gatherings, colleges, schools, stadiums, amphitheaters, factories, hospitals, *boarding and nursing homes for aged persons,* motor courts, tourist inns, cabins, asylums, sanitariums, and all other places where large numbers of persons work, sleep, live, or congregate from time to time for any purpose but not to private residences."

Effective immediately.

Section 2. This act shall take effect and be in full force from and after its passage and approval.

Approved February 18, 1965.

CHAPTER 23

An Act to Amend Section 84-429.8, R. C. M. 1947, Which Authorized a Tax Levy of Two (2) Mills for a Statewide Reclassification and Reappraisal of All Taxable

HeinOnline -- 1965 38 1965

Lands and Improvements, by Authorizing a Levy of Not to Exceed One (1) Mill Upon All Property Subject to Taxation for Maintaining and Keeping Current Such Reclassification and Reappraisal.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-429.8, R. C. M. 1947, is hereby amended to read as follows: Amending clause.

"84-429.8. **Classification and appraisal fund—tax levy for.** The board of county commissioners shall create and establish a fund to be known as the 'Classification and Appraisal Fund', and may, *beginning with the fiscal year which commences July 1, 1965,* levy annually a tax not to exceed *one (1)* mill upon all property in the county subject to taxation, the proceeds of which shall be deposited by the county treasurer to the credit of such fund, and any balance unexpended at the end of any fiscal year shall remain in such fund and be available to carry out the provisions of this act *and to maintain and keep current the classification of all taxable lands and appraisals of city and town lots and rural and urban improvements.* All costs and expenses incurred by the board of county commissioners for such work, labor, services and supplies required by this act, shall be paid by warrants drawn on said fund on claims approved by said board; and the board of county commissioners is hereby authorized to declare an emergency and issue such warrants in the manner provided by section 16-1907 of the Revised Codes of Montana of 1947." Classification and appraisal fund—tax levy for. Costs and expenses.

Approved February 18, 1965.

CHAPTER 24

An Act to Amend Section 11-1912, R. C. M. 1947, Relating to Disability and Pension Funds of Fire Department Relief Associations and the Tax Levy for Maintaining Same; Providing for an Increase Thereof; and Providing a Maximum Levy for Such Provisions by Cities in the Third Class.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-1912, R. C. M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1965 39 1965

Tax levy for fund —collection —rating.

"11-1912. **Tax levy for fund.** For the purpose of maintaining said disability and pension funds of such fire department relief association, in an amount equal to one per centum (1%) of the taxable valuation of all taxable property within the limits of any city, town or municipality, the city or town council or the commission or such other proper authority of any municipality, as is now or may hereafter be established, under special or local laws passed by the legislative assembly and adopted by the electors within such city, town or municipality, entitled to vote thereon, at all times when the said relief association fund is in a total amount of less than one per centum (1%) of the taxable valuation of all taxable property within the limits of the city, town or municipality, shall, annually, in the manner provided by law, at the time of the levy of the annual tax, levy a special tax as herein below set forth, which said special tax shall be collected as other taxes are collected and when so collected shall be paid into the disability and pension fund of the fire department relief association of said city, town or municipality:

1. Whenever the total amount of a fire department relief association's fund is less than one per centum (1%) of the taxable valuation of all taxable property within the limits of the city, town or municipality, the special tax levy shall be two (2) mills on each dollar of taxable valuation of all property assessed for taxes within the limits of the said city, town or municipality; provided, however, if the assessment of a two (2) mill tax levy in one year will create a revenue as will cause said fire department relief association's disability and pension fund to exceed one per centum (1%) of the taxable valuation of all taxable property in said city, town or municipality, then, in that event, and not otherwise, the mill tax levy shall be such fractional part of two (2) mills as will produce a sufficient amount of revenue as will bring the total amount of the said fire department relief association's disability and pension fund to an amount equal to one per centum (1%) of the taxable valuation of all taxable property in said city, town or municipality.

2. Whenever the total amount of a fire department relief association's fund is less than one-half of one per centum (½ of 1%) of the taxable valuation of all taxable property within the said city, town or municipality, the

HeinOnline -- 1965 40 1965

special tax levy shall be three (3) mills on each dollar of taxable valuation of all taxable property assessed for taxes within said city, town or municipality; provided, however, that if the assessment of a three (3) mill tax levy in any one year will create a revenue as will cause said fire department relief association's disability and pension fund to exceed one per centum (1%) of the taxable valuation of all taxable property in said city, town or municipality, then, in that event, and not otherwise, the tax levy shall be two (2) mills, as provided in the last preceding paragraph, and such fractional part of one (1) mill as will produce a sufficient revenue as will cause the fire department relief association's disability and pension fund to equal one per centum (1%) of the taxable valuation of all taxable property in said city, town or municipality.

Cities of third class.

3. In cities of the third class, when the fire department relief association's disability and pension fund contains an amount of less than two per centum (2%) of all taxable property within the city limits of the city, town or municipality, the city council may levy an annual special tax not to exceed two (2) mills on the dollar of all taxable valuation of all taxable property assessed within the said city, town or municipality."

Approved February 18, 1965.

CHAPTER 25

An Act Declaring the Raising of Fur-bearing Animals in Captivity to Be an Agricultural Pursuit Without Altering the Powers or Duties of the State Fish and Game Commission Under Existing Statutes.

Be it enacted by the Legislative Assembly of the State of Montana:

Raising and marketing of furbearing animals —agricultural pursuit.

Section 1. (1) The following are agricultural pursuits:

(a) The breeding, raising and producing in captivity of all fur-bearing animals.

(b) The marketing by the producer of these animals as live animals or as pelts.

(2) Such animals or pelts are agricultural products and any person engaged in the producing or marketing

HeinOnline -- 1965 41 1965

of such products is a farmer engaged in an agricultural pursuit, as generally expressed in title 3, R. C. M. 1947.

Duties of fish and game commission not altered.

(3) This act is not intended to alter the powers or duties of the state fish and game commission with respect to fur-bearing animals under existing statutes.

Approved February 18, 1965.

CHAPTER 26

An Act to Amend Section 40-2821, R. C. M., 1947, by Extending the Period When the Tax on Net Insurance Premiums Shall Be Two and One-quarter Per Cent (2¼%) of such Premiums from the Calendar Years 1963 and 1964 to the Calendar Years 1965 and 1966.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 40-2821, R. C. M. 1947, is amended to read as follows:

Authorized insurer —filing report.

"40-2821. (1) Each authorized insurer, and each formerly authorized insurer with respect to premiums so received while an authorized insurer in this state, shall file with the commissioner, on or before March 1 each year, a report (except as to wet marine and transportation insurance taxed under subsection (3) below) in form as prescribed by the commissioner showing total direct premium income including policy, membership and other fees, premiums paid by application of dividends, refunds, savings, savings coupons, and similar returns or credits to payment of premiums for new or additional or extended or renewed insurance, charges for payment of premium in installments, and all other consideration for insurance from all kinds and classes of insurance whether designated as a premium or otherwise, received by it during the preceding calendar year on account of policies covering property, subjects, or risks located, resident, or to be performed in Montana (with proper proportionate allocation of premium as to such property, subjects, or risks in Montana insured under policies or contracts covering property, subjects, or risks located or resident in more than one state), after deducting from such total direct premium income applicable cancellations, returned

Form.

HeinOnline -- 1965 42 1965

premiums, the unabsorbed portion of any deposit premium, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings, savings coupons and other similar returns paid or credited to policyholders with respect to such policies. As to title insurance 'premium' includes only the risk portion of the charge for such insurance. No deduction shall be made of the cash surrender values of policies. Considerations received on annuity contracts shall not be included in total direct premium income and shall not be subject to tax.

"Premium."

(2) Coincident with the filing of the tax report referred to in subsection (1) above, each such insurer shall pay to the commissioner a tax upon such net premiums, the tax to be computed at the rate of two per cent (2%) of such premiums; provided that for each of the calendar years *1965* and *1966* the tax shall be computed at the rate of two and one-quarter per cent (2¼%) of such premiums.

Tax—computation.

Provided, that where any insurer has not less than fifty per cent (50%) of its paid-in capital stock invested in Montana securities, the insurer shall be allowed to deduct whatever tax it may have already paid to the state of Montana and its political subdivisions, during the same calendar year as to which premium tax is being paid, from the amount otherwise due under this section. For the purpose of this provision 'paid-in capital stock' as to a mutual or reciprocal insurer shall be deemed to be an amount equal to ten per cent (10%) of the insurer's assets; and 'Montana securities' shall be deemed to include only general obligations of the state of Montana or of its political subdivisions, mortgage loans secured by a first lien upon real estate located in Montana, and real estate located in Montana owned by the insurer, all if otherwise lawful investments of the insurer under this code.

Deduction.

"Paid-in capital stock."

"Montana securities."

(3) (a) On or before March 1 of each year each insurer shall file with the commissioner, on forms as prescribed and furnished or accepted by him, a report of its gross underwriting profit on wet marine and transportation insurance, as defined in section 40-2907, written in this state during the calendar year next preceding, and

Filing and payment—date.

HeinOnline -- 1965 43 1965

shall at the same time pay to the commissioner a tax of three-quarters of one per cent of such gross underwriting profit.

Gross underwriting profit.

(b) Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e. gross premiums less all return premiums and premiums for reinsurance) on such wet marine and transportation insurance contracts the net losses paid (i.e. gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include for computation of the tax prescribed by this subsection (3) the amounts refunded, credited or paid as participation dividends or savings by such insurers to the holders of such contracts.

Tax on fire insurance premiums—separately specified.

(4) That portion of the tax paid hereunder by an insurer on account of premiums received for fire insurance shall be separately specified in the report as required by the commissioner, for apportionment as provided by law. Where insurance against fire is included with insurance of property against other perils at an undivided premium, the insurer shall make such reasonable allocation from such entire premium to the fire portion of the coverage as shall be stated in such report and as may be approved or accepted by the commissioner.

Premium tax—payment in full.

(5) With respect to authorized insurers the premium tax provided by this section shall be payment in full and in lieu of all other demands for any and all state, county, city, district, municipal, and school taxes, licenses, fees and excises of whatever kind or character, excepting only those prescribed by this code, taxes on real and tangible personal property located in this state and taxes payable under section 82-1231, Revised Codes of Montana, 1947 (tax for support of state fire marshal activities), and demands for state, county, city, district, municipal, and school taxes, licenses, fees, and excises made because of operations prior to January 1, 1957.

State pre-empts tax on insurers.

(6) The state of Montana hereby pre-empts the field of imposing excise, privilege, franchise, income, license, and similar taxes, licenses, and fees upon insurers and their general agents and agents as such, and on the intangible property of insurers or such agents; and no county, city, municipality, district, school district, or

HeinOnline -- 1965 44 1965

other political subdivision or agency in Montana shall levy upon insurers, or upon their general agents and agents as such, any such tax, license, or fee additonal to such as are levied by the legislative assembly of Montana in this code.

Certificate of authority—suspension or revocation.

(7) The commissioner may suspend or revoke the certificate of authority of any insurer which fails to pay its taxes as required under this section.

Effective date.

(8) The provisions of this section shall apply to taxable years beginning after December 31, 1960."

Approved February 18, 1965.

CHAPTER 27

An Act Amending Section 11-986, R. C. M. 1947, by Deleting the Prohibition Against Cities and Towns Erecting Structures on Parking Areas.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-986, R. C. M. 1947, be amended to read as follows:

Cities and towns have power to acquire landing fields and parking areas.

"11-986. **Acquisition of landing fields and parking areas—jurisdiction.** The city or town council has power: To acquire by lease, gift, purchase or condemnation lots or lands for landing fields or parking areas for aircraft, within or without the corporate limits of the municipality, and to acquire by lease, gift, or purchase lots or lands for parking areas for automobiles within the corporate limits of the municipality, and to exercise municipal jurisdiction over the lots or lands where such lots or lands, or any portion thereof, are without the corporate limits of the municipality, to the same extent as though they were within such corporate limits."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 18, 1965.

CHAPTER 28

An Act to Amend Section 26-201, R. C. M. 1947, as Amended, Redefining Angling or Fishing, and Further

HeinOnline -- 1965 45 1965

Redefining Game Fish to Include All Species of the Genus Polyodon (Paddlefish).

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-201, R. C. M. 1947, as amended, is amended to read as follows:

Definitions.

"26-201. **Definitions.** For the purpose of this act, the following shall be construed, respectively to mean:

Commission.

Commission. *The* state fish and game commission.

Person.

Person. The plural or singular, male or female, as the case demands, including individual, associations, partnerships, and corporations, unless the context otherwise requires.

Open season.

Open season. The time during which game birds, fish, game and fur bearing animals may be lawfully taken.

Closed season.

Closed season. The time during which game birds, fish, game and fur bearing animals may not be lawfully taken.

Angling or fishing.

Angling or fishing. The taking of, or attempting to take fish by hook and *single* line or *single* rod in hand *or within immediate control.*

Upland game birds.

Upland game birds. Sharptail grouse, blue grouse, prairie chicken, sage hen or sage grouse, fool hen, ruffed grouse, commonly called native pheasant or native partridge, quail, Chinese pheasant and Mongolian pheasant, commonly called ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

Migratory game birds.

Migratory game birds. Waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown, sandhill and whooping cranes; rails, including coots, gallinules, sora or other rails; shore birds, including avocets, curlew, dowitcher, godwits, knots, upland plover, killdeer, sandpipers, Wilson snipes, or jacksnipes, snipes, stilts, plovers, willets and yellow legs.

Nongame birds.

Nongame birds. All wild birds not defined herein as upland game birds or migratory game birds, shall be deemed non-game birds.

Game animals.

Game animals. Deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, bear and bison or buffalo.

HeinOnline -- 1965 46 1965

Fur bearing animals. Marten or sable, otter, muskrat, fisher, mink, beaver, Canada lynx and black-footed ferret. Furbearing animals.

Predatory animals. Coyote, wolf, wolverine, mountain lion, weasel, skunk and civetcat, and bobcat. Predatory animals.

Game fish. *All species of the family salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus strizostedion (sandpike or sauger and walleyed pike or yellow pike perch); all species of the genus esox (northern pike, pickerel and muskellunge); all species of the genus micropeterus (bass); and all species of the genus polyodon (paddlefish).*" Game fish.

Approved February 18, 1965.

CHAPTER 29

An Act Requiring Consent of the Senate on Appointment of Certain Commission Members; Amending Section 26-102, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-102, R. C. M. 1947, is amended to read as follows: Amending clause.

"26-102. (1) The state of Montana is hereby divided into the following districts and the counties composing each district are as follows: Districts—counties composing.

District No. 1. Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark. District No. 1.

District No. 2. Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park and Sweetgrass. District No. 2.

District No. 3. Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher and Wheatland. District No. 3.

District No. 4. Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, Wibaux. District No. 4.

District No. 5. Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, Prairie. District No. 5.

HeinOnline -- 1965 47 1965

Appointments—consent of senate.

(2) One member of the commission shall be appointed from each of the foregoing districts by the governor of the state of Montana *with the consent of the senate. In each year when there is an appointment, it shall be made by the first day of February.* The selection of said members shall be made without regard to political affiliation but for the sole welfare of the fish and game and wildlife of the state. No person shall be appointed a member of said commission unless he shall be informed or interested and experienced in the subject of wildlife, fish and game, and the requirements for the conservation and protection of fish, game, and game birds and animals.

Terms of office.

(3) The first fish and game commissioners appointed in districts 1, and 5 shall each hold office for a term of four (4) years; the first commissioners appointed in districts 2 and 4 shall each hold office for a term of three (3) years; the first fish and game commissioner appointed in district 3 shall hold office for a term of two (2) years, and thereafter the term of office of each fish and game commissioner shall be four (4) years.

Removal from office.

(4) The governor may remove any fish and game commissioner for inefficiency, neglect of duty, or misconduct in office, or for cause by delivering to him a copy of the charges and affording him an opportunity of being publicly heard in person or by counsel in his own defense, upon not less than fifteen (15) days' notice in writing accompanied by a statement of the charges held against him.

Vacancies.

(5) Vacancies occurring in the fish and game commission shall be filled by the governor *with the consent of the senate* in the same manner and from the districts in which such vacancies occur.

Surety bond required.

(6) Each commissioner shall, before entering upon his official duties, execute and file a surety bond with the secretary of state, running to the state of Montana, in the penal sum of one thousand ($1,000.00) dollars, conditioned for the faithful performance of his duties and that he will account for and pay over to the fish and game fund of the state all moneys received by him and he shall be reimbursed for the premium on said bond from the state fish and game fund upon furnishing a proper voucher therefor."

Approved February 18, 1965.

HeinOnline -- 1965 48 1965

CHAPTER 30

An Act Increasing the Amount Ditch Companies May Levy for Certain Purposes from Five to Ten Per Cent of the Amount of Capital Stock; Amending Section 15-702, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 15-702, R. C. M. 1947, is amended to read as follows: Amending clause.

"15-702. No one assessment must exceed *ten* per cent of the amount of the capital stock named in the articles of incorporation, except that if the whole capital stock of a corporation has not been paid up, and the corporation is unable to meet its liabilities or to satisfy the claims of its creditors, the assessment may be for the full amount unpaid upon the capital stock; or, if a less amount is sufficient, then it may be for such a percentage as will raise that amount." Single assessment limited to 10% of capital stock—exception.

Approved February 18, 1965.

CHAPTER 31

An Act Concerning Tax Levies for City and County Emergencies and Containing an Effective Date and Containing an Expiration Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. At used in this act: (1) An "emergency" may be: "Emergency."

(a) A fire, flood, explosion, storm, blizzard, earthquake or epidemic; or

(b) An occurrence requiring the immediate preservation of order or public health; or

(c) An occurrence requiring the restoration of a condition of usefulness which has been destroyed; or

(d) An occurrence which requires relief of a stricken community.

(2) "County disaster committee" includes: "County disaster committee."

HeinOnline -- 1965 49 1965

(a) The members of the agricultural stabilization and conservation county committee of the county involved;

(b) The county commissioners and mayor or mayors of the county involved;

(c) The office manager of the soil conservation service office in the county involved;

(d) The county civil defense director;

(e) The county agriculture extension agent;

(f) Such other persons not to exceed two (2) in number as the county commissioners may appoint.

"Council." (3) "Council" means the city council of an incorporated municipality.

"Board." (4) "Board" means the board of county commissioners.

"Mayor." (5) "Mayor" means the mayor of an incorporated municipality.

"Municipality." (6) "Municipality" means an incorporated municipality.

Emergency—determination. Section 2. The county disaster committee shall determine by a majority vote when an emergency exists. Upon the determination that an emergency does exist, they shall submit a resolution to the mayor or mayors of municipalities of the county and to the chairman of the board.

Meetings. Section 3. (1) Upon receipt of the resolution the mayor or mayors and the chairman of the board shall call joint or separate meetings of the council or councils and the board, respectively.

Notice. (2) A mayor or chairman of a board shall give reasonable notice of the time and place at which the meeting or meetings shall be held.

Resolution. Section 4. (1) If at the meeting or meetings the council and the board respectively find from the resolution of the county disaster committee that an emergency exists, they shall place in their respective minutes a resolution stating facts constituting the emergency.

Estimation of expenditures. Section 5. (1) The council and the board shall estimate expenditures and levy an emergency millage to

HeinOnline -- 1965 50 1965

cover the expenditures. The millage levied by the council shall not exceed two (2) mills on the municipalities taxable valuation. The millage levied by the board shall not exceed two (2) mills on the taxable valuation of the county outside the municipality or municipalities.

Approval.

(2) No expenditure of revenue received from the millage shall be made without approval of the appropriate levying body.

Additional levy.

(3) An additional levy or levies may be made by the appropriate levying body providing that the sum of the levies for emergencies as set forth in this act not exceed two (2) mills in any one year.

Passage.

(4) All levies under this act may only be passed by a unanimous vote of the appropriate body.

Limitation of emergency.

(5) From and after July 1, 1965 no emergency shall be declared more than "two" (2) weeks after the occurrence of such emergency event.

Funds remaining.

Section 6. Funds remaining upon the restoration to normal after the emergency shall remain in a separate fund known as the emergency fund and shall be used for no other purpose.

Effective immediately.

Section 7. This act is effective on its passage and approval.

Termination.

Section 8. This act shall be in force and effect until December 31, 1967.

Approved February 18, 1965.

CHAPTER 32

An Act Amending Secton 16-2618, R. C. M. 1947, to Provide for the Investment of Moneys of Any Common School District, High School District, or County High School.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-2618, R. C. M. 1947, is amended to read as follows:

Duty of treasurers —public moneys.

"(1) It shall be the duty of all county, city and town treasurers to deposit all public moneys in their possession

HeinOnline -- 1965 51 1965

and under their control in any solvent bank or banks located in the county, city or town of which such treasurer is an officer, subject to national supervision or state examination as the board of county commissioners in the case of a county, or of the council in the case of a city or town, may designate, and no other. The treasurer shall take from such bank such security as the board of county commissioners, in the case of a county, or the council in the case of a city or town, may prescribe, approve and deem fully sufficient and necessary to insure the safety and prompt payment of all such deposits, together with the interest on any time or savings deposits, provided that said board of county commissioners or city or town council is hereby authorized to deposit such public moneys not necessary for immediate use by such county, city or town with any bank authorized herein above in a savings or time deposit; and provided that said board of county commissioners, or city or town council is hereby authorized to invest such public moneys not necessary for immediate use by such county, city or town, in direct obligations of the United States government, payable within not to exceed one hundred eighty (180) days from the time of such investment.

Security.

Obligations of U.S.

Security required only for uninsured funds.

(2) Said board of county commissioners, city or town council may require security for only such portion of deposits as is not guaranteed or insured according to law.

Securities consist of.

Such securities shall consist of bonds of some surety company authorized to do business in the state of Montana, or bonds guaranteed by such companies directly or indirectly, bonds and securities of the United States government and its dependents, bonds and warrants of the state of Montana or of any county, city, town or school district of Montana, Federal Land Bank bonds, bonds of other states and counties of other states, bonds of the Dominion of Canada, and Canadian Provinces, and other Canadian bonds guaranteed by the Canadian government or provinces thereof, and bonds issued in the United States of America, which are quoted on the New York market, which shall be acceptable at not to exceed ninety per centum (90%) of such market quotation.

Negotiable securities— placed in trust.

(3) When negotiable securities are furnished, such securities may be placed in trust and the trustee's receipt may be accepted in lieu of the actual securities when such receipt is in favor of the treasurer, his successors

HeinOnline -- 1965 52 1965

and the state of Montana, and the form of receipt and the trustee have been approved by the state examiner. All warrants or other negotiable securities must be properly assigned or endorsed in blank. It shall be the duty of the board of county commissioners in the case of county funds, or the council in the case of funds of a city or town, upon the acceptance and approval of any of the above-mentioned bonds or securities, to make a complete minute entry of such acceptance and approval upon the record of their proceedings, and such bonds and securities shall be reapproved at least quarter annually thereafter.

Ratable distribution of fund among banks.

(4) When more than one bank is available in any county, for the deposit of county funds, or in any city or town for the deposit of city or town funds, such deposits shall be distributed ratably among all of such banks qualifying therefor, substantially in proportion to the paid-in capital and surplus of each such bank willing to receive such deposits under the terms of this act, and it shall be the duty of said county, city or town treasurer to prorate all such deposits among all of the banks qualified to receive the same as in this act provided, to the end that an equitable distribution of such deposits shall be maintained.

State examiner—improper distribution of funds.

(5) Whenever it shall come to the attention of the state examiner that the funds of any county, city or town are not properly distributed as provided in this act, the state examiner shall order the treasurer of such county, city or town to distribute said funds in accordance herewith, and if such treasurer shall refuse or neglect to comply with such order, it shall be the duty of the state examiner to institute proceedings against such treasurer at the cost of the county, city or town of which such treasurer is an officer, on the official bond of such treasurer. If no such bank exists in the county, city or town, or if any bank or banks existing therein fails or refuses to qualify under the terms of this act to receive such deposits, then and in such case, or in either of such cases, such moneys as have not been accepted by any bank or banks within said county, city or town, shall be deposited under the terms of this act, in the bank or banks most convenient to such county, city or town, willing to accept such deposits under the terms of this act, and qualified as above provided. Any bank or banks receiving such deposits, shall, through its president and

Statement of account.

HeinOnline -- 1965 53 1965

cashier, make a statement quarter annually of account, under oath, showing all such moneys that have been deposited with such bank during the quarter, the amount of daily balance in dollars, and the amount of interest by such bank or banks credited or paid therefor, and showing that neither such bank nor any officer thereof, nor any person for it, has paid or given any consideration or emolument whatsoever to the treasurer or to any other person other than the interest provided for herein, for or on account of the making of such deposits, with any such bank. All such deposits shall be subject to withdrawal by the treasurer in such amounts as may be necessary from time to time, and no deposit of funds shall be made, or permitted to remain in any bank, until the security for such deposits shall have been first approved by the board of county commissioners in the case of county funds, or by the council in the case of city or town funds, and delivered to the treasurer.

Withdrawal.

Interest paid.

(6) *Except as provided in subsection (8) of this section,* all interest paid and collected on such deposits or investments shall be credited to the general fund of the county, city or town to whose credit such funds are deposited. Where moneys shall have been deposited in accordance with the provisions of this act, the treasurer shall not be liable for loss on account of any such deposit that may occur through damage by the elements or for any other cause or reason occasioned through means other than his own neglect, fraud, or dishonorable conduct.

Substitution of securities.

(7) Any bank pledging securities as provided in this act at any time it deems advisable or desirable may substitute like securities for all or any part of the securities pledged. The collateral so substituted shall be approved by the governing body of the county, city or town at its next official meeting. Such securities so substituted shall at the time of substitution be at least equal in principal amount to the securities for which substitution is made. In the event that the securities so substituted are held in trust, the trustee shall, on the same day the substitution is made, forward by registered or certified mail to the county, city or town and to the depository bank, a receipt specifically describing and identifying both the securities so substituted and those released and returned to the depository bank.

HeinOnline -- 1965 54 1965

Investment in insured banks or obligations of U.S. payable within 180 days.

(8) Whenever in the judgment of the trustees of any common school district, high school district, or county high school it would be advantageous to invest any money of such school or school district in savings or time deposits in a state or national bank insured by the F. D. I. C., or in direct obligations of the United States government, payable within one hundred eighty (180) days from the time of investment, such governing body may in its discretion direct the county treasurer to make such investments. All interest collected on such deposits or investments shall be credited to the fund from which the money was withdrawn, provided that nothing in this act shall be interpreted to conflict with section 16-2050 R. C. M. 1947."

Approved February 22, 1965.

CHAPTER 33

An Act to Amend Subsection (1) of Section 75-2707, R. C. M. 1947, Pertaining to Retirement at Age of Seventy of Members of the Teachers Retirement System, and Providing the Exception to Required Retirement.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-2707 (1) (b), R. C. M. 1947, be, and the same is hereby amended to read as follows:

Retirement benefits.

"75-2707. **Benefits.** (1) Superannuation retirement benefit. (a) Any member who has completed ten years of creditable service, the last ten years of which shall have been in this state, and who has attained the age of sixty may retire from service, if he files with the retirement board his written application setting forth the fact of his retirement.

Retirement at age of 70.

(b) That from and after the passage and approval of this act, any member in service who has attained the age of seventy years, during any school year shall be retired by said retirement board on the first day of September following his or her seventieth birthday, *provided, however, that this provision shall not apply to teachers in the Montana university system who may be employed beyond the age of seventy upon the recommendation of the president of the unit concerned to the board of regents. Provided further that such teachers (1) shall not be given*

Exclusion upon recommendation.

HeinOnline -- 1965 55 1965

credit toward retirement pay for teaching service rendered after the end of the school year in which the age of seventy is attained, (2) shall not contribute to the retirement system after the end of said school year, and (3) shall not have the compensation received after the end of said school year used in computing final average salary. Initial employment of teachers in the Montana university system beyond the age of seventy may be made upon the recommendation of the president of the unit concerned to the board of regents but such employees are denied membership in the teachers' retirement system.

Initial employment beyond age of 70.

Compensation without loss of retirement benefits.

Provided, further, that any retired teacher may be employed as a teacher in Montana and may earn an amount not to exceed one-fourth of his final average compensation without loss of retirement benefits."

Approved February 22, 1965.

CHAPTER 34

An Act Amending Sections 75-2516 and 75-2518, R. C. M. 1947, Relating to Certification of Elementary Teachers.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-2516 is amended to read as follows:

Classes of teaching certificates.

"75-2516. **Classes of certificates for teaching.** The state superintendent of public instruction may issue the following classes of certificates for teaching in accordance with the rules and regulations approved and adopted by the state board of education:

Class 1—professional certificate.

Class 1. **Professional certificate.** The professional certificate may be issued to applicants who have completed a teacher education program which includes a bachelor's degree and a minimum of one year of study beyond the degree, such degree and additional study to have been taken at a unit of the university of Montana or equivalent institution as provided by section 75-2515. The professional certificate may be endorsed for elementary and/or secondary instruction, and for specified subject fields according to the academic and professional courses offered by the applicant and in accordance with the rules

HeinOnline -- 1965 56 1965

and regulations established by the state board of education for such endorsement.

Class 2—standard certificate.

Class 2. **Standard certificate.** The standard certificate may be issued to applicants who have completed a four-year teacher education program and who have been awarded a bachelor's degree by a unit of the University of Montana or equivalent institution as provided by section 75-2515. The standard certificate may be endorsed for elementary and/or secondary instruction, and for specified subject fields according to the academic and professional courses offered by the applicant and in accordance with the rules and regulations established by the state board of education for such endorsement.

Class 3—administrative and supervisory certificates.

Class 3. **Administrative and supervisory certificates.** A person shall be qualified to be a superintendent of schools in any school district when he shall hold a certificate qualifying him to teach in the school or schools thereof, and in addition shall have such other qualifications with reference to special preparation and experience as the state board of education may from time to time prescribe.

Principal or supervisor—qualifications.

A person shall be qualified to be a principal or supervisor of or in any school when he shall hold a certificate qualifying him to teach in such school, and in addition shall have such other qualifications with reference to special training and experience as the state board of education may from time to time prescribe.

When any person shall establish his qualifications to be a superintendent, principal or supervisor, as aforesaid in compliance with the rules and regulations prescribed by the state board of education, the state superintendent of public instruction may certify him as being qualified to be such superintendent, principal or supervisor, as the case may be. Contracts with principals, supervisors or superintendents shall not be valid unless such persons shall be qualified by holding the appropriate and required certificate.

Class 4—vocational, recreational, and adult education certificates.

Class 4. **Vocational, recreational, and adult education certificates.** The state superintendent of public instruction shall have authority to issue special certificates to vocational, recreational, and adult education teachers who present such qualifications of training and experience as

HeinOnline -- 1965 57 1965

meet the requirements of the United States office of education or the special needs of the several vocational, recreational and adult education fields, and comply with the rules and regulations approved and adopted by the state board of education.

Class 5—provisional certificate.

Class 5. **Provisional certificate.** The provisional certificate may be issued to applicants who provide evidence satisfactory to the state board of education of intent to qualify themselves in the future for the Class 1 professional certificate or the Class 2 standard certificate, and who have completed the following minimum of academic and/or professional training at a unit of the university of Montana or equivalent institution as provided by section 75-2515:

Elementary endorsement.

a. **For elementary endorsement.** Applicants shall have completed a minimum of two years in a teacher education program *on or before August 31, 1966, and shall submit application for initial certification on or before December 31, 1966. On and after January 1, 1967, applicants shall have completed a four-year college program or its equivalent and shall hold a bachelor's degree.*

Secondary endorsement.

b. **For secondary endorsement.** Applicants shall have completed a four-year college program or its equivalent and shall hold a bachelor's degree. The provisional certificate endorsed for secondary instruction may also be endorsed for specified subject fields according to the academic and/or professional courses offered by the applicant.

Endorsements.

Certificates shall be endorsed in accordance with the rules and regulations established by the state board of education for such endorsement.

Year.

For purposes of evaluating the qualifications of applicants for teaching certificates, a year means that instructional period consisting of three quarters or two semesters or other terms which are recognized as an academic year by any unit of the university of Montana or equivalent institution."

Amending clause.

Section 2. Section 75-2518 is amended to read as follows:

Outstanding teaching certificates.

"75-2518. **Outstanding certificates for teaching.** No provisions of *sections 75-2511 through 75-2521, R.C.M.*

HeinOnline -- 1965 58 1965

1947, shall affect or impair the validity of any certificate for teaching in force on July 1, 1959, or the rights and privileges of the holders by virtue thereof, save that any certificate may be suspended or revoked for any of the causes and by the procedures specified by law.

Renewal.

Any holder of an elementary school standard certificate issued prior to July 1, 1959, under previous statute and in force on July 1, 1959, shall be eligible for renewal of such certificate in accordance with the rules and regulations of the state board of education until the holder qualifies for the Class 2 standard certificate as provided in section 75-2516, as amended.

Any holder of a Class 5 certificate in force on June 30, 1966, or issued between July 1, 1966, and December 31, 1966, shall be eligible for renewal of such certificate in accordance with the rules and regulations of the state board of education until the holder qualifies for the Class 2 standard certificate as provided in section 75-2516 as amended."

Approved February 22, 1965.

CHAPTER 35

An Act Providing for the Protection of the Public Health by Establishing Controls of Refuse Disposal Areas, Defining Terms Used in the Act, Prohibiting Dumping in Unlicensed Areas, Requiring a License to Be Obtained from the Local, County or District Health Officer, Requiring the State Board of Health to Approve Disposal Areas, Authorizing Revoking the License, Authorizing the State Board of Health to Promulgate Rules and Regulations, Excluding Refuse Disposal by an Individual of His Own Refuse on His Own Property from This Act, Eliminating the Payment of an Annual Fee by Governmental Agencies, Setting Forth Payments, Repealing All Acts and Parts of Acts in Conflict With This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Control of refuse disposal areas.

Section 1. It is hereby found and declared that the health and welfare of Montana citizens are being endangered by improperly operated refuse disposal areas. It is

HeinOnline -- 1965 59 1965

declared the public policy of this state to control refuse disposal areas to protect the public health and safety.

Definitions.

Section 2. **Definitions.** Terms used in this act shall be defined as follows: (1) "Garbage," putrescible animal and vegetable wastes resulting from handling, preparation, cooking and consumption of food.

"Garbage."

"Refuse."

(2) "Refuse," all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, street cleanings, dead animals, yard clippings and solid market and solid industrial wastes.

"Rubbish."

(3) "Rubbish," nonputrescible solid wastes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, abandoned automobiles, tin cans, wood, glass, bedding, crockery and similar materials.

Dumping prohibited —where.

Section 3. **Dumping in an unlicensed area is prohibited.** No person, partnership, company or corporation shall hereafter dispose of any garbage, rubbish or refuse in any place except as permitted under this act.

License.

Section 4. **License required.** Each year each person, partnership, company or corporation desiring to operate a refuse disposal area shall obtain a license for operating same from the local, county or district board of health having jurisdiction. To obtain a license to operate a disposal area, application to the local, county or district board of health having jurisdiction, must be made on forms provided by it. The application shall contain the name and residence of the applicant, the location of the proposed disposal area and such other information as the state board of health may by regulation require. There shall be paid to the local, county or district board of health with each application for such license or for renewal of such license, an annual license fee of twenty-five dollars ($25). This fee is to be deposited in the general fund of the county in which the refuse disposal area is to be located.

Application —contents.

License fee.

Disposal area —approval.

Section 5. **State board of health to approve disposal area.** Upon receipt of the application, the local, county or district board of health having jurisdiction shall notify the state board of health who will then cause to be made an inspection of the proposed site and determine if the proposed operation can comply with this act and rules and regulations adopted pursuant thereto. When the

HeinOnline -- 1965 60 1965

state board of health reports favorably upon the application, the local, county or district board of health having jurisdiction shall issue a license to the applicant. All licenses shall expire one year after issuance but may be renewed upon payment of an annual fee of twenty-five dollars ($25).

Expiration of license.

Section 6. The local, county or district board of health having jurisdiction may revoke or refuse to renew any license after reasonable notice and hearing if it finds that the disposal area is not operated in a sanitary manner, as set forth by this law and by the rules and regulations adopted under this law.

Revocation or refusal of license —cause.

Section 7. The state board of health is authorized to promulgate rules and regulations for the operation of refuse disposal areas. Said regulations shall be prepared and published and shall contain sanitary standards for disposal areas. The state board of health shall cause all licensed disposal areas to be inspected and recommend to the local, county or district board of health action which may be taken to enforce the provisions of this act.

Rules and regulations.

Section 8. This act shall not be construed to prohibit any person from disposing of garbage, rubbish or refuse upon his own land as long as such disposal does not create a nuisance. Any incorporated city, town, rural improvement district or county may establish a disposal area and operate same without paying the annual license fee, but must meet all other requirements of this act.

Private lands —use.

Section 9. Any person violating this act or regulations prescribed by the state board of health under this act, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty dollars ($50), nor more than five hundred dollars ($500). Each day upon which a violation of this act occurs shall be considered a separate offense.

Violatons.

Section 10. All acts and parts of acts in conflict herewith are hereby repealed, except that section 32-1014 and section 94-3542, R. C. M. 1947, shall in no way be affected by this act.

Repealing clause.

Section 11. It is the intent of the legislative assembly that if a part of this is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications,

Legislative intent as to validity.

HeinOnline -- 1965 61 1965

the part remains in effect, and all valid applications that are separable from the invalid applications.

Approved February 22, 1965.

CHAPTER 36

An Act to Permit the Movement of Trucks and Trailers for Demonstration Purposes; Providing for a Permit Therefor; Providing for the Fee for Such Permit; Providing for the Issuance, Validation and Duration of Such Permits; Providing for a Penalty and Providing for the Disposition of Fees.

Be it enacted by the Legislative Assembly of the State of Montana:

Demonstration of trucks and trailers.

Section 1. A new or used truck or trailer dealer licensed under the provisions of section 53-118 may demonstrate to a prospective purchaser any truck, truck tractor, trailer or semitrailer, owned by or consigned to said dealer, or otherwise controlled by said dealer, by payment of the fees required in this section; provided the vehicle displays the dealer's registration plate or other current Montana registration and the demonstration permit provided in section 2 of this act.

Demonstration permit—obtaining.

Section 2. The licensed dealer shall obtain the demonstration permit upon application to the Montana highway commission and payment of eight ($8) dollars for each permit and the payment of this fee shall be in lieu of fees required under section 53-615. The form of such permits and the application therefore shall be provided by the state highway commission under such rules and regulations as they may prescribe and shall be designated so that the licensed dealer may fill in the necessary information thereon and such permit will be validated by the dating, inserting of name and address of the prospective purchaser, and affixing thereto the signature of said licensed dealer. The licensed dealer may obtain more than one (1) but no to exceed five (5) demonstration permits with each application.

Operation of vehicle —expiration.

Section 3. Vehicles displaying said permit may be operated either laden or unladen. Each of the said permits shall expire seven (7) days from and after the date of validation by the licensed dealer.

HeinOnline -- 1965 62 1965

A demonstration permit shall not be issued to the same prospective purchaser for the demonstration of the same vehicle or vehicles for more than one (1) seven (7) day period.

The vehicle operating with the demonstration permit shall not be leased or rented by the licensed dealer or operated for compensation by the licensed dealer whatsoever.

Violation.

Section 4. Violation of any provision of this section shall be deemed a misdemeanor and subject to the provision of section 53-623. For the purposes of this section, a licensed dealer shall be considered the owner.

Disposition of fees.

Section 5. Fees collected under this section shall be disposed of in the manner provided in section 53-621 R. C. M., 1947, originally enacted as section 7, chapter 219, laws of 1951.

Approved February 22, 1965.

CHAPTER 37

An Act Changing the Procedure for Unifying a County High School With the School District in Which the County High School Is Located; Amending Sections 75-4121, 75-4122, 75-4123, 75-4124, 75-4125, and 75-4126, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Unification of county high school with school district—method.

Section 1. A county high school may be unified with and made a part of the school district in which the county high school is located in the following manner: If the board of trustees of the county high school and the board of trustees of the school district in which the county high school is located shall each pass a resolution requesting unification and an election thereon and shall each file copies of the respective resolutions with the county superintendent of schools, or if a petition signed by ten per cent (10%) of the qualified electors of the high school district where the county high school is located, or of the county if it is not divided into high school districts, is filed with the county superintendent requesting that an election on the question of unification be held, the county

HeinOnline -- 1965 63 1965

Notice of election.

superintendent within not less than twenty (20) nor more than thirty (30) days shall cause notice of election to be given by posting and publication. The question shall be submitted to the qualified electors of the high school district where the county high school is located or to the qualified electors of the county if it is not divided into high school districts. The notice shall be posted in three (3) public places in each school district of the high school district, or of the county if it is not divided into high school districts, and at least one (1) voting place shall be provided in each such school district. The notice shall also be published once in a newspaper published in the county and having general circulation therein. The notice shall specify the voting places, the time when the polls shall be open and that the question to be submitted is FOR or AGAINST unification.

Notice by posting.

Notice by publication.

Order.

If a majority of the votes cast at such election shall be FOR unification the county superintendent shall make an order that unification shall be effective the following July 1.

Qualified voters.

If a majority of the votes cast at such election shall be AGAINST unification the county superintendent shall so declare.

Persons qualified to vote for school trustees shall be eligible to vote at the election provided for herein and as far as applicable the statutes relating to the election of school trustees shall govern such election.

Appointment of additional board members.

Section 2. If unification is accomplished, immediately after the effective date the county superintendent of schools in those counties which have been divided into high school districts shall appoint additional board of trustee members in the manner provided by section 75-4601, R. C. M. 1947, if the majority of the school districts lying within the high school district so request. If the county has not been divided into high school districts, the county shall immediately upon unification, become a high school district in its entirety in the same manner as if action had been taken under section 75-4602, R. C. M. 1947. Members appointed by the county superintendent of schools shall hold office until the next annual school election when there shall be elected a trustee to replace each appointed member.

HeinOnline -- 1965 64 1965

Section 3. If unification is accomplished, the board of trustees of the district which was unified with the county high school shall adopt a high school budget for the next fiscal year on the fourth Monday in June preceding the effective date of unification. High school budget.

Section 4. Section 75-4121, R. C. M. 1947, is amended to read as follows: Amending clause.

"75-4121. **Petition to be filed.** Between the first day of July and the first day of September in any year in which a general election is held in the state of Montana twenty per centum (20%) or more, of the qualified registered electors of any county maintaining a county high school who are also assessed in their own names on the assessment books of the county for that year upon real or personal property may file their written petition with the county clerk of the county praying that the county high school be abolished." Petition to abolish county high school.

Section 5. Section 75-4122, R. C. M. 1947, is amended to read as follows: Amending clause.

"75-4122. **Commissioners to submit question.** At the first regular monthly meeting of the board of county commissioners of the county immediately following such filing the petition shall be called to the attention of the board by the county clerk; and the board shall immediately direct the submission to the registered voters of the county at the ensuing general election for that year *of the question whether the county high school of the county should be abolished.*" Submission of question to registered voters.

Section 6. Section 75-4123, R. C. M. 1947, is amended to read as follows: Amending clause.

"75-4123. **Publication of notice and preparation of poll books.** The county clerk of the county shall publish a notice of the filing and purpose of the said petition, which notice shall contain the question of abolishing the county high school. The notice shall also state that the said question will be submitted at the ensuing general election. The notice shall be published at least once a week for four successive weeks in some newspaper of general circulation published in the county, and, if there be none, in such newspaper as the board of county commissioners may designate, the first publication of such notice to be made between September 1 and September 15 Publication of notice and preparation of poll books.

HeinOnline -- 1965 65 1965

of the said year. The county clerk of said county shall prepare suitable poll books containing the names of all registered electors at the expense of the county."

Amending clause.

Section 7. Section 75-4124, R. C. M. 1947, is amended to read as follows:

Further notice—holding election—ballots.

"75-4124. **Further notice required—manner of holding election—ballots.** Further notice of the submission of the question shall be given, and such question shall be submitted to the registered voters of the county at the ensuing general election in November, and the votes cast thereon canvassed and returns thereof made in the manner provided by law for the election of county officers at that election, subject, however, to the following special requirements:

The votes for or against abolishment of the county high school shall be cast by ballot in substantially the following form.

Abolishment of county high school.

☐ For the abolishment of the county high school.

☐ Against the abolishment of the county high school.

An elector may vote for the question submitted to him for consideration by placing an 'X' in the square immediately before the words 'For the abolishment of the county high school'; and a ballot so marked and cast shall be counted in favor of abolishing the county high school. An elector may vote against the question submitted to him for consideration by placing an 'X' in the square immediately preceding the words 'Against the abolishment of the county high school'; and a ballot so marked and cast shall be counted against abolishing the county high school."

Amending clause.

Section 8. Section 75-4125, R. C. M. 1947, is amended to read as follows:

Action by county commissioners—to abolish.

"75-4125. **Action by board of county commissioners when election favors abolishing county high school.** If a majority of all votes cast at such general election upon the question of the abolishment of the county high school shall be in favor of abolishing the same the board of county commissioners of the county at its first regular meeting in December following the election shall make

HeinOnline -- 1965 66 1965

and enter at large upon its minutes an abstract of the votes so cast and a resolution that in accordance therewith on and after July 1st of the year immediately following the county high school of the county shall be, and is thereby abolished."

Section 9. Section 75-4126, R. C. M. 1947, is amended to read as follows: Amending clause.

"75-4126. **When election favors retaining high school.** But if a majority of all votes cast at such election shall be against the abolishment of the county high school a similar abstract of the votes shall in like manner be entered by the board of county commissioners at large upon their minutes at its December meeting aforesaid; and no further submission of the question of abolishing the county high school shall be had in that county for at least two (2) years thereafter, provided that if an election against the abolishment of the county high school has been had within any county within two years prior to the enactment of this statute, that the question shall not again be resubmitted for at least two (2) years after the date that this act becomes effective." Action by county commissioners —to retain.

Section 10. This act is effective on its passage and approval. Effective immediately.

Approved February 22, 1965.

CHAPTER 38

An Act to Amend Sections 11-3905 and 11-3906, Revised Codes of Montana, 1947, Relating to Elections in Connection With Urban Renewal Projects, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 11-3905, Revised Codes of Montana, 1947, be, and is hereby amended to read as follows: Amending clause.

"11-3905. **Finding of necessity by local governing body.** No municipality shall exercise any of the powers hereafter conferred upon municipalities by this act until after its local governing body shall have adopted a reso- Finding of necessity.

HeinOnline -- 1965 67 1965

lution finding that: (1) one or more blighted areas exist in such municipality; and (2) the rehabilitation, redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of such municipality."

Amending clause.

Section 2. That section 11-3906, Revised Codes of Montana, 1947, be, and is hereby amended to read as follows:

Projects and plans —preparation and approval.

"11-3906. **Preparation and approval of urban renewal projects and urban renewal plans.** (a) A municipality shall not approve an urban renewal project for an urban renewal area unless the local governing body has, by resolution, determined such area to be a blighted area and designated such area as appropriate for an urban renewal project. The local governing body shall not approve an urban renewal plan until a comprehensive plan or parts of such plan for an area which would include an urban renewal area for the municipality have been prepared. For this purpose and other municipal purposes, authority is hereby vested in every municipality to prepare, to adopt, and to revise from time to time, a comprehensive plan or parts thereof for the physical development of the municipality as a whole (giving due regard to the environs and metropolitan surroundings), to establish and maintain a planning commission for such purpose and related municipal planning activities, and to make available and to appropriate necessary funds therefor. A municipality shall not acquire real property for an urban renewal project unless the local governing body has approved the urban renewal project plan in accordance with subsection (d) hereof.

Preparation of plan by municipality.

(b) The municipality may itself prepare or cause to be prepared an urban renewal plan, or any person or agency, public or private, may submit such a plan to the municipality. Prior to its approval of an urban renewal project, the local governing body shall submit such plan to the planning commission of the municipality for review and recommendations as to its conformity with the comprehensive plan or parts thereof for the development of the municipality as a whole. The planning commission shall submit its written recommendations with respect to the proposed urban renewal plan to the local

HeinOnline -- 1965 68 1965

governing body within sixty (60) days after receipt of it. Upon receipt of the recommendations of the planning commission, or if no recommendations are received within said sixty (60) days, then without such recommendations, the local governing body may proceed with the hearing on the proposed urban renewal project plan prescribed by subsection (c) hereof.

Public hearing —notice.

(c) The local governing body shall hold a public hearing on an urban renewal plan after public notice thereof. Such notice shall be given by publication once each week for two consecutive weeks not less than ten (10) nor more than thirty (30) days prior to the date of the hearing in a newspaper having a general circulation in the urban renewal area of the municipality and by mailing a notice of such hearing not less than ten (10) days prior to the date of the hearing to the persons whose names appear on the county treasurer's tax roll as the owner or reputed owner of the property, at the address shown on the tax roll. The notice shall describe the time, date, place, and purpose of the hearing, shall generally identify the urban renewal area affected, and shall outline the general scope of the urban renewal plan under consideration.

Approval of project.

(d) Following such hearing, the local governing body may approve an urban renewal project if it finds that (1) a workable and feasible plan exists for making available adequate housing for the persons who may be displaced by the project; (2) the urban renewal plan conforms to the comprehensive plan or parts thereof for the municipality as a whole; (3) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise; and (4) that a sound and adequate financial program exists for the financing of said project.

Blighted area.

Provided, that the local governing body must find the urban renewal project area to be blighted area as defined in section 1 (b) [11-3901] hereof.

Modification of plan.

(e) An urban renewal project plan may be modified at any time by the local governing body: Provided, that if modified after the lease or sale by the municipality of real property in the urban renewal project area, such modification shall be subject to such rights at law or in

HeinOnline -- 1965 69 1965

equity as a lessee or purchaser, or his successor or successors in interest may be entitled to assert.

Plan controlling when approved.

(f) Upon approval of an urban renewal project by a municipality, the provisions of the urban renewal plan with respect to the future use and building requirements applicable to the property covered by said plan shall be controlling with respect thereto.

Approved project submitted to taxpayers for vote.

(g) Upon the approval of an urban renewal project by a municipality the plan shall be submitted to a vote of the taxpayers of such municipality and shall be approved by a majority of those taxpayers voting *on such question. If the plan or any subsequent modification thereof involves financing by the issuance of general obligation bonds of the municipality as authorized in section 11-3913, subsection (c), or the financing of water or sewer improvements by the issuance of revenue bonds under the provisions of title 11, chapter 24, or of sections 11-2217 to 11-2221, inclusive, the question of approving the plan and issuing such bonds shall be submitted to a vote of the taxpayers of such municipality in accordance with the provisions of sections 11-2308 to 11-2310, inclusive, at the same election and shall be approved by a majority of those taxpayers voting on such question. Aiding in the planning, undertaking or carrying out of an urban renewal project approved in accordance with this section shall be deemed a single purpose for the issuance of general obligation bonds, and the proceeds of such bonds authorized for any such project may be used to finance the exercise of any and all powers conferred upon the municipality by section 11-3907 which are necessary or proper to complete such project in accordance with the approved plan and any modification thereof duly adopted by the local governing body. Sections 11-2306 and 11-2307 shall not be applicable to the issuance of such bonds.*

Effective immediately.

Section 3. That this act shall be in full force and effect from and after its passage and approval.

Approved February 22, 1965.

CHAPTER 39

An Act to Subject to Assessment and Taxation Interests in Property of the State of Montana Held by Taxable Ownerships.

HeinOnline -- 1965 70 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Property not subject to ad valorem tax to owner assessed to purchaser or lessee.

Section 1. Property of the state of Montana or any department, agency or subdivision thereof or any other property not subject to ad valorem tax to the owner thereof by reason of the legal status of the owner held under contract of sale or lease with option to purchase with lease monies applicable to purchase price by any person, corporation or other association for his or its exclusive use shall be subject to assessment to purchaser or lessee for ad valorem property taxation.

No tax shall attach to an interest of the state of Montana.

Section 2. When such property is held under a contract of sale or other agreement whereby on certain payment or payments the legal title is or may be acquired by such person, corporation or association, such property shall be assessed to such person, firm or corporation and taxed without deduction on account of the whole or any part of the purchase price or other sum due on such property remaining unpaid; provided that the lien for such tax neither attach to, impair or be enforced against any interest of the state of Montana or any department, agency or subdivision thereof.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 22, 1965.

CHAPTER 40

An Act Increasing the Time Period for Which Special Improvement District Bonds May Be Issued by County Commissioners from Twenty to Thirty Years; Authorizing Repayment by Counties Over a Period of Forty Years If Federal Loans Are Available; Authorizing Facsimile Signatures on Bond Coupons by County Commissioners; Amending Sections 16-1613 and 16-1620, R. C. M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-1613, R. C. M. 1947, is amended to read as follows:

Defray cost of improvements—tax.

"16-1613. To defray the cost of making improvements in any special improvement district, the board of county

HeinOnline -- 1965 71 1965

commissioners shall, by resolution, levy and assess a tax upon all property in the district created for such purpose, by using for a basis for such assessment the method provided for by this act. Such resolution shall contain a description of each lot or parcel of land, with the name of the owner, if known, and the amount of each partial payment, when made, and the day when the same shall become delinquent. The payment of the assessment to defray the cost of constructing any improvements in special improvement districts may be spread over a term of not to exceed *thirty (30)* years, payment to be made in equal annual installments. *If federal loans are available, payments may be spread over a term of not to exceed forty (40) years.*"

Amending clause.

Section 2. Section 16-1620, R. C. M. 1947, is amended to read as follows:

Warrants and bonds—form and terms.

"16-1620. **Form and terms of district warrants and bonds—payment of contracts.** (1) All costs and expenses incurred in the construction or maintenance of any improvement specified in this act, in any improvement district shall be paid for by special improvement district bonds, or warrants. Such bonds or warrants shall be drawn in substantially the following form:

District No.....

United States of America

State of Montana

Warrant or Dollars

(Bond No.....) $.....

Interest at the rate of.....per cent per annum, payable annually.

Special Improvement District Coupon Warrant or Bonds

....., Montana.

Issued by the County of....., Montana.

The county treasurer of.....County, Montana, will pay to....., or bearer, the sum of..... dollars, as authorized by Resolution No....., as passed on the.....day of....., 19....., creating or maintaining the Special Improvement District No. ....., for the construction (or maintenance) of the im-

HeinOnline -- 1965 72 1965

provements and work performed as authorized in said resolution to be done in said district, and all laws, resolutions and ordinances relating thereto, in payment of the contract in accordance therewith. The principal and interest of this warrant (or bond) are payable at the office of the county treasurer of.....County, Montana.

This warrant (or bond) bears interest at the rate of .....per cent per annum from the date of the registration of this warrant (or bond), as expressed herein, until the date called for the redemption by the county treasurer. The interest on this warrant (or bond) is payable annually on the first day of..... of each year, unless paid previous thereto and as expressed by the interest coupons hereto attached, which bear the signatures of the chairman of the board of county commissioners and the county clerk.

This warrant (or bond) is payable from the collection of a special tax or assessment which is a lien against the real estate within said improvement districts, as described in said resolution hereinbefore referred to.

This warrant (or bond) is redeemable at the option of the county at any time there are funds to the credit of said special improvement district fund (construction and maintenance) for the redemption thereof, and in the manner provided for the redemption of the same.

It is hereby certified and recited, that all things required to be done precedent to the issuance of this warrant (or bond) have been properly done, happened and been performed in the manner prescribed by the laws of the state of Montana and the resolution and ordinances of the county of....., Montana, relating to the issuance thereof.

Dated at....., Montana, this.....day of ....., 19....., County of....., Montana.

(SEAL)

By....., chairman of the board of county commissioners.

(SEAL)

.....County Clerk

HeinOnline -- 1965 73 1965

Registered at the office of the county treasurer of .....County, Montana this.....day of ....., 19.....

.....
County Treasurer

Special improvement district fund.

(2) And the same shall be drawn against the special improvement district fund created for the district, that is, either the construction or maintenance fund as the case may be, and shall bear interest not to exceed six per cent per annum from the date of registration until called for redemption or paid in full, interest to be payable annually on the first day of January of each year, unless the board of county commissioners prescribe another date. Such warrants (or bonds) shall bear the signatures of the chairman of the board of county commissioners and the county clerk, and shall bear the corporate seal of the county. They shall be registered in the office of the county clerk and the county treasurer, and, if interest coupons be attached thereto, they shall also be so registered, and shall bear the signatures of the chairman of the board of county commissioners and the county clerk, *provided however, that said coupons may bear the facsimile signatures of said officers in the discretion of the board of county commissioners.* Said bonds shall be in denominations of one hundred dollars ($100) or fractions, or multiples thereof; and may be issued in installments, and may extend over a period of not to exceed *thirty (30)* years, *except that if federal loans are available for improvements, repayment may extend over a period not to exceed forty (40) years.*

Redemption of warrants by county treasurer.

(3) Such warrants (or bonds) shall be redeemed by the county treasurer when there are funds in the special improvement district fund against which said warrants (or bonds) are issued available therefor; provided that the county treasurer shall first pay out of the proper special improvement district fund, annually, the interest on all outstanding warrants (or bonds) on presentation of the coupons belonging thereto, and any funds remaining in the proper fund shall be applied to the payment of the principal and the redemption of the warrants (or bonds) in order of their registration; provided, further, that whenever there are any funds in any special improvement district fund, after paying the interest on such warrants (or bonds) drawn against said fund, the county

HeinOnline -- 1965 74 1965

treasurer shall call in for payment outstanding warrants (or bonds), which, together with the interest thereon to the date of redemption, will equal the amount of said fund on that date, which date shall be fixed by the county treasurer, who shall give notice by publication once in a newspaper published in the city, or, at the option of the county treasurer, by written notice to the holder or holders of such warrants (or bonds), if their address be known, of the number of warrants (or bonds), and the date on which payment will be made, which date shall not be less than ten days after the date of publication or of service of notice, and on which date so fixed, interest shall cease.

Payments for maintenance or improvements —method.

(4) The board of county commissioners shall provide for making payments for maintenance or improvements in any rural improvement district by the following method:

The board of county commissioners shall sell bonds or warrants issued under the provisions hereof, in an amount sufficient to pay that part of the total cost and expense of making the improvement which is to be assessed against the property within the district, to the highest and best bidder therefor for cash, for not less than the face value of such bonds, or warrants, and including interest thereon, and shall use the proceeds of such sale in making payment to the contractor, or contractors, and such payment may be made either, from time to time, on estimates made by the engineer in charge of such improvements for the county, or upon the entire completion of the improvements and the acceptance thereof by the board of county commissioners. The provisions of sections 11-2313, 11-2314 and 11-2315, which relate to the notice of sale, publication of notice and manner and method of selling bonds by cities and towns, insofar as the same are applicable thereto and not in conflict with the provisions of this section, shall apply to, govern and control the form of notice of sale, publication of notice and manner and method of selling such bonds or warrants."

Approved February 22, 1965.

CHAPTER 41

An Act to Amend Section 40-3011, Revised Codes of Montana, 1947, as Enacted by Chapter 286, Session Laws of

HeinOnline -- 1965 75 1965

Montana, 1959, Relating to the Valuation of Life Insurance Policies and Contracts; Prescribing Additional Mortality Tables for Such Valuation; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 40-3011, Revised Codes of Montana, 1947, as enacted by chapter 286, Montana session laws, 1959, is amended to read as follows:

Standard valuation law—life insurance reserves.

"40-3011. **Standard valuation law — life insurance.** (1) The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise. In the case of an alien insurer, such valuation shall be limited to its insurance transactions in the United States. For the purpose of making such valuation the commissioner may employ a competent actuary who shall be paid by the insurer for which the service is rendered; but a domestic insurer may make such valuation and it may be received by the commissioner upon satisfactory proof of its correctness. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

Any insurer which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum

HeinOnline -- 1965 76 1965

standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

Exception—existing contracts.

(2) This subsection shall apply to only those policies and contracts issued prior to the operative date of section 40-3831 (the standard nonforfeiture law).

Minimum standard of reserve valuation.

The minimum standard of valuation on all policies of domestic life insurance issued prior to January 1, 1922, shall be the American experience table of mortality and interest at three and one-half per cent (3½%) per annum, with preliminary term insurance for the first policy year, and for policies of such insurers issued subsequent to December 31, 1921, shall be the American experience table of mortality with interest at three and one-half per cent (3½%) per annum, with preliminary term insurance for the first policy year, except as follows: If the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereon in less than twenty (20) years from the date of the policy, or under an endowment preliminary term policy, exceeds that charged for life insurance under twenty (20) payment life preliminary term policies of the same insurer, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a twenty (20) payment life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium reserve sufficient to provide for a pure endowment at the end of the premium payment period equal to the difference between the value at the end of such period of such a twenty (20) payment life preliminary term policy and the full net level premium reserve at such time of such a limited payment life or endowment policy.

Reserves for all such policies and contracts may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this subsection.

(3) This subsection shall apply to only those policies and contracts issued on or after the operative date of section 40-3831 (the standard nonforfeiture law).

HeinOnline -- 1965 77 1965

Minimum standard for valuation of policies and contracts.

(a) The minimum standard for the valuation of all such policies and contracts shall be the commissioner's reserve valuation method defined in subdivision (b), three and one-half per cent (3½%) interest, and the following tables:

(i) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies—the commissioner's 1941 standard ordinary mortality table for such policies issued prior to the operative date of subsection (8-a) of section 40-3831 (the standard nonforfeiture law) as amended, and the commissioner's 1958 standard ordinary mortality table for such policies issued on or after such operative date; except, that for any category of such policies issued on female risks, modified net premiums and present values, referred to in subdivision (b), may be calculated, at the option of the insurer with the approval of the commissioner, according to an age younger than the actual age of the insured.

(ii) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the 1941 standard industrial mortality table *for such policies issued prior to the operative date of subsection (8-b) of section 40-3831 (the standard nonforfeiture law) as amended, and the commissioners 1961 standard industrial mortality table for such policies issued on or after such operative date.*

(iii) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the 1937 standard annuity mortality table or, at the option of the insurer, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

(iv) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the group annuity mortality table for 1951, any modification of such table approved by the commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(v) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for poli-

HeinOnline -- 1965 78 1965

cies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the insurer, the class (3) disability table (1926); and for policies issued prior to January 1, 1961, the class (3) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vi) For accidental death benefits in or supplementary to policies—for policies issued on or after January 1, 1966, the 1959 accidental death benefits table; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the insurer, the intercompany double indemnity mortality table; and for policies issued prior to January 1, 1961, the intercompany double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(vii) For group life insurance, life insurance issued on the substandard basis and other special benefits—such tables as may be approved by the commissioner.

Computation of reserves for uniform policies.

(b) Reserves according to the commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (A) over (B), as follows:

Computation of modified net premiums.

(A) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value,

HeinOnline -- 1965 79 1965

at the date of issue of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(B) A net one year term premium for such benefits provided for in the first policy year.

Computation of reserves for varying amount policies.

Reserves according to the commissioner's reserve valuation methods for (i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (ii) annuity and pure endowment contracts, (iii) disability and accidental death benefits in all policies and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of this subdivision (b), except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

Minimum aggregate reserves.

(c) In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the method set forth in subdivision (b) and mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

Option to adopt method creating greater aggregate reserves.

(d) Reserves for any category of policies, contracts or benefits as established by the commissioner, may be calculated at the option of the insurer according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein. Provided, however, that reserves for participating life insurance policies may, with the consent of the commissioner, be calculated according to a rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by

HeinOnline -- 1965 80 1965

more than one-half per cent (½%) the insurer issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commissioner shall approve.

Deficiency reserves.

(e) Deficiency reserves. If the gross premium charged by any life insurer on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period."

Computation.

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved February 22, 1965.

CHAPTER 42

An Act to Amend Section 40-3831, Revised Codes of Montana, 1947, as Enacted by Chapter 286, Session Laws of Montana, 1959, Relating to Nonforfeiture Provisions in Life Insurance Policies; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 40-3831, Revised Codes of Montana, 1947, as enacted by chapter 286, Montana session laws, 1959, is amended to read as follows:

Standard nonforfeiture life insurance.

"40-3831. **Standard nonforfeiture law—life insurance.** (1) This section shall be known as the standard nonforfeiture law.

Provisions.

(2) **Nonforfeiture provisions—Life:** In the case of policies issued on or after the operative date of this section as defined in subsection (11) of this section, no policy of life insurance, except as set forth in subsection (10) of this section, shall be delivered or issued for de-

HeinOnline -- 1965 81 1965

livery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

Paid-up benefit.

(a) That in the event of default in any premium payment, after premiums have been paid for at least one full year, the insurer will grant, upon proper request not later than sixty (60) days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date of such value as may be hereinafter specified.

Cash surrender within 60 days of default.

(b) That upon surrender of the policy within sixty (60) days after the due date of any premium payment in default after premiums have been paid for at least three (3) full years in the case of ordinary insurance, and five (5) full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

Option.

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty (60) days after the due date of the premium in default.

Cash surrender of paid-up policies.

(d) That if the policy shall have become paid up by completion of all premium payments, or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance, or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within thirty (30) days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

Statement of tables.

(e) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary, either during the first twenty (20) policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are

HeinOnline -- 1965 82 1965

no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

Statement of minimum values.

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of this state; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

Alteration.

Statement of computation.

Statement of method.

Right to defer.

(3) Any of the provisions or portions thereof set forth in subdivisions (a) through (f) of the foregoing subsection (2) which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy. The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six (6) months after demand therefor with surrender of the policy.

Computation of cash surrender value in event of default—life.

(4) **Cash surrender value—Life:** Any cash surrender value available under the policy in the event of default in the premium payment due on any policy anniversary, whether or not required by subsection (2) of this section, shall be an amount not less than the excess, if any, of the present value on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions if there had been no default, over the sum of:

(a) The then present value of the adjusted premiums as defined in subsections (6), (7), (7-a), (8), (8-a) *and (8-b)* of this section, corresponding to premiums which would have fallen due on and after such anniversary, and

HeinOnline -- 1965 83 1965

(b) The amount of any indebtedness to the insurer on account of or secured by the policy. Any cash surrender value available within thirty (30) days after any policy anniversary under any policy paid up by completion of all premium payments, or any policy continued under any paid-up nonforfeiture benefits, whether or not required by such subsection (2), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

Paid-up nonforfeiture benefit —life.

(5) **Paid-up nonforfeiture benefit—Life:** Any paid-up nonforfeiture benefit available under the policy in the event of default in the premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy, or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the conditions that premiums shall have been paid for at least a specified period.

Computaton of adjusted premium—life.

(6) **The adjusted premium—Life:** Except as provided in subsection (7-a), the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

(a) The then present value of the future guaranteed benefits provided for by the policy;

(b) Two per cent (2%) of the amount of the insurance if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with the duration of the policy;

(c) Forty per cent (40%) of the adjusted premium for the first policy year;

(d) Twenty-five per cent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or

HeinOnline -- 1965 84 1965

equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less, provided, however, that in applying the percentages specified in subdivisions (c) and (d) above, no adjusted premiums shall be deemed to exceed four per cent of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the provisions of the policy, the date of inception of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy. The date of issue of a policy for the purposes of this subsection shall be the date as of which the rated age of the insured is determined.

Computation in case of insurance varying with duration of policy.

(7) In the case of a policy providing an amount of insurance varying with the duration of the policy, the equivalent uniform amount thereof for the purpose of the preceding subsection (6) shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy for a varying amount of insurance issued on the life of a child under age ten (10), the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten (10).

Adjusted premiums.

(7-a) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (i) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased during the period for which premiums for such term insurance benefits are payable, by (ii) the adjusted premiums for such term insurance, the foregoing items (i) and (ii) being calculated separately and as specified in subsections (6) and (7) except that, for the purposes of (b), (c), and (d) of subsection (6), the amount of insurance

HeinOnline -- 1965 85 1965

or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (ii) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (i).

Basis for calculation of adjusted premiums and present values.

(8) Except as otherwise provided in *subsections (8-a) and (8-b),* all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the commissioner's 1941 standard ordinary mortality table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated, at the option of the insurer with approval of the commissioner, according to an age younger than the actual age of the insured *and such* calculations for all policies of industrial insurance shall be made on the basis of the 1941 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half per cent (3½%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred thirty per cent (130%) of the rates of mortality according to such applicable table, provided further that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

Ordinary policies.

(8-a) In the case of ordinary policies issued on or after the operative date of this subsection (8-a) as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners 1958 standard ordinary mortality table and the rate of interest, not exceeding three and one-half per cent (3½%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured. Provided, however, that in

HeinOnline -- 1965 86 1965

calculating the present value of any paid-up term insurance with the accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1958 extended term insurance table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

After the effective date of this subsection (8-a), any insurer may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date before January first, nineteen hundred and sixty-six. After the filing of such notice, then upon such specified date (which shall be the operative date of this subsection for such insurer), this subsection shall become operative with respect to the ordinary policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January first, nineteen hundred and sixty-six.

Industrial policies

(8-b) In the case of industrial policies issued on or after the operative date of this subsection (8-b) as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of commissioners 1961 standard industrial mortality table and the rate of interest, not exceeding three and one-half per cent (3½%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1961 industrial extended term insurance table. Provided, further, that for insurance issued on a substandard basis the calculations of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

After the effective date of this subsection (8-b), any insurer may file with the commissioner a written notice of its election to comply with the provisions of this subsec-

HeinOnline -- 1965 87 1965

tion after a specified date before January first, nineteen hundred and sixty-eight. After the filing of such notice, then upon such specified date (which shall be the operative date of this subsection for such insurer), this subsection shall become operative with respect to the industrial policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January first, nineteen hundred and sixty-eight.

Calculation of values—life.

(9) **Calculation of values—Life:** Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (4), (5), (6), (7), (7-a), (8-a) *and (8-b)* of this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of subsection (4) of this section, additional benefits payable:

Additional benefits payable.

(a) In the event of death or dismemberment by accident or accidental means,

(b) In the event of total and permanent disability,

(c) As reversionary annuity or deferred reversionary annuity benefits,

(d) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply.

(e) As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid up by reason of the death of a parent of the child, and

(f) As other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits,

HeinOnline -- 1965 88 1965

Shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(10) **Exceptions.** This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of fifteen (15) years or less expiring before age 66 for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsections (6), (7), (7-a), (8), (8-a) *and (8-b)* of this section is less than the adjusted premiums so calculated on a policy issued at the same age and for the same initial amount of insurance for a term defined as follows: For ages at issue fifty (50) and under, the term shall be fifteen (15) years; thereafter, the term shall decrease one (1) year for each year of age beyond fifty (50). Exceptions.

(11) **Operative date.** After the effective date of the act by which this section was originally enacted, any insurer could have filed with the state auditor a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1948, with respect to the policies specified in the notice. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer with respect to such policies), this section shall have become operative with respect to the policies specified in such notice thereafter issued by such insurer. As to all of its policies and contracts with respect to which an insurer makes no such election, the operative date of this section with respect to such policies and contracts for such insurer is January 1, 1948." Operative date.

Section 2. This act is effective on its passage and approval. Effective immediately.

Approved February 22, 1965.

CHAPTER 43

An Act Amending Section 4-113, R. C. M. 1947, to Require That Every Package of Liquor Sold Within the State Shall Have an Official Serially Numbered Seal.

HeinOnline -- 1965 89 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 4-113, R. C. M. 1947, is amended to read as follows:

Regulation by board—scope.

"4-113. **Regulations may be made by board—scope of regulations.** (1) The board may make such regulations, not inconsistent with this act, as to the board seem necessary, for carrying out the provisions of this act, and for the efficient administration thereof.

Regulation to include.

(2) Without thereby limiting the generality of the provisions contained in subsection (1) hereof, it is declared the power of the board to make regulations in the manner set out in that subsection shall extend to and include the following:

(a) Regulating the equipment and management of state stores and warehouses in which liquor is kept or sold and prescribing the books and records to be kept therein;

(b) Prescribing the duties of the officers, clerks and servants of the board, and regulating their conduct while in the discharge of their duties;

(c) Governing the purchase of liquor and the furnishing of liquor to state stores established under this act;

(d) Determining the classes, varieties and brands of liquor to be kept for sale at any state store;

(e) Prescribing, subject to this act, the days and hours during which state liquor stores and hotels, and clubs licensed to sell beer under this act shall be kept open for the sale of liquor;

(f) Providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each class, variety or brand of liquor kept for sale under this act;

(g) Prescribing an official *serially numbered* seal *which* shall be attached to every package of liquor sold or sealed under this act;

(h) Prescribing forms to be used for the purpose of this act or of the regulations made thereunder, and the terms and conditions in permits and licenses issued and granted under this act;

HeinOnline -- 1965 90 1965

(i) Prescribing the nature of the proof to be furnished, and the conditions to be observed in the issuing of duplicate permits in lieu of those lost or destroyed;

(j) Prescribing the kinds and quantities of liquor which may be purchased under permits of any class, including the quantity which may be purchased at any one time or within any specified period of time;

(k) Prescribing the form of records of purchase of liquor by the holders of permits, and the reports to be made thereon to the board, and providing for inspection of the records so kept;

(l) Prescribing the manner of giving and serving notices required by this act or the regulations thereunder;

(m) Prescribing the duties of officials authorized to issue permits under this act;

(n) Prescribing the fees payable in respect of permits and licenses issued under this act for which no fees are prescribed in this act, and prescribing the fees for anything done or permitted to be done under the regulations made thereunder;

(o) Prescribing, subject to the provisions of this act, any advertisement of the application, if required by the board and the conditions and qualifications necessary for the obtaining of club licenses and the books and records to be kept and the returns to be made by clubs, and the number of licensed clubs in any municipality, and providing for the inspection of clubs;

(p) Prescribing, subject to the provisions of this act, the conditions and qualifications necessary for the obtaining of a beer license, and the books and records to be kept and the returns to be made by the licensees and the number of such licensed premises in any municipality and providing for the inspection of such licensed premises;

(q) Specifying and describing the place and the manner in which liquor may be lawfully kept or stored;

(r) Specifying and regulating the time and periods when, and the manner, methods and means by which, vendors and brewers shall deliver liquor under this act, and the time and periods when, and the manner, methods

HeinOnline -- 1965 91 1965

and means by which liquor, under this act, may be lawfully conveyed or carried;

(s) Governing the conduct, management and equipment of any premises licensed to sell beer under this act;

(t) Subject to this act, to make regulations respecting the sale and consumption of beer in a club, holding a club license;

(u) Providing for the imposition and collection of the tax to be collected or levied under section 4-147, and making regulations respecting returns to be made by a brewer, and respecting the accounting and payment, by a brewer to the board, of the tax to be collected by him under said section 4-147.

Power to make regulations.

(3) Whenever it is provided in this act that any act, matter or thing, may be done, if permitted or authorized by the regulations, or may be done in accordance with the regulations or as provided by the regulations, the board, subject to the restrictions set out in subsection (1) hereof, shall have the power to make regulations respecting such act, matter or thing."

Approved February 22, 1965.

CHAPTER 44

An Act Providing for an Embargo Against the Importation of Grain, Hay, Straw, Plants, Seeds, Tubers, Nursery Stock, Fruit, or Other Materials Containing Noxious Weed Seeds Into the State; and Amending Section 16-1708, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-1708, R. C. M. 1947, is amended to read as follows:

Governor, on advice of commissioner of agriculture, shall proclaim embargo against noxious seeds or plants.

"16-1708. Whenever the *commissioner of agriculture* of the state has good reason to believe that *movements* of grain, plants, seed, tubers, nursery stock, *hay, straw,* fruit, *or other materials* containing noxious weed seed or plants dangerous or inimical to the horticultural or agricultural industries are about to be introduced into the state, he may *so advise the governor, and the governor shall,* by procla-

HeinOnline -- 1965 92 1965

mation, declare an embargo against the importation or shipment of any such grain, plants, tubers, nursery, stock, seed, *hay, straw,* fruit, *or other materials* into the state, except under such restrictions as *are established in this act, and as provided in the rules and regulations established by the commissioner of agriculture.*"

Commissioner of agriculture —authority.

Section 2. The commissioner of agriculture is hereby vested with the power and authority, and it is hereby made his duty, to adopt all necessary restrictions, rules, and regulations in the enforcement of any embargo proclaimed as provided in section 1 of this act. The commissioner, in adopting such restrictions, rules and regulations, may provide for the establishment of inspection stations, the appointment of inspectors, the establishment of the inspection fees, the issuance of certificates, the methods of transporting and packaging, and such other rules, regulations and procedures as may be necessary to carry out the intent of this act.

Penalty.

Section 3. Any person who refuses to obey an order of an appointed inspector or willfully disobeys the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars ($50) and not more than five hundred dollars ($500).

Fines and fees.

Section 4. All fines levied as provided in section 3 of this act, and all fees collected from inspections shall be deposited with the state treasurer to the credit of the earmarked revenue fund for the use of the commissioner of agriculture for the purpose of administering and enforcing this act.

Approved February 22, 1965.

CHAPTER 45

An Act Permitting the Investment of Interest and Sinking Fund Moneys of Special Improvement Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Funds of special improvement district— investment —where.

Section 1. The governing body of a county or city in which a special improvement district is located, may invest interest and sinking fund moneys of the district in time deposits of a bank insured by the Federal Deposit

HeinOnline -- 1965 93 1965

Insurance Corporation, or in direct obligations of the United States government payable within one hundred eighty (180) days from the time of investment. All interest collected on such deposits or investments shall be credited to the fund from which the money was withdrawn.

Approved February 22, 1965.

CHAPTER 46

An Act Changing the Time for Filing of Candidates for Second and Third Class District School Boards from Five to Twenty Days Preceding the Election; Amending Section 75-1604, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-1604, R. C. M. 1947, is amended to read as follows:

School board candidates—second and third class districts—filing time.

"75-1604. In districts of the second and third class, the names of all candidates for membership on the school board must be received and filed by the clerk and posted at each polling place at least *twenty* days next preceding the election. Any five qualified electors of the district may file with the clerk the nominations of as many persons as are to be elected to the school board at the ensuing election."

Approved February 22, 1965.

CHAPTER 47

An Act Providing for the Dissolution of Weed Control and Weed Seed Extermination Districts, and Amending Section 16-1723, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-1723, R. C. M. 1947, is amended to read as follows:

Petition to dissolve weed control district.

"16-1723. When a petition signed by *fifty-one per cent (51%)* of the landowners *of agricultural land* residing

HeinOnline -- 1965 94 1965

within any weed control and weed seed extermination district shall be presented to the board of county commissioners of the county wherein such district is situated, requesting the dissolution of such district, the commissioners shall set a day for a hearing upon such petition and shall cause notice of the time and place thereof to be given by posting notices in not less than three (3) public places in said district and by publication in two (2) weekly issues of the newspaper published nearest the district. All persons owning lands within said district and all other persons having any interests which would be affected by the dissolution of such district shall be entitled to be heard at such hearing, and upon such hearing the board of county commissioners shall determine whether or not weed infestation within said district requires a continuance thereof, and, if said board shall find and determine that the continuance of said district is not necessary it shall dissolve said district by a resolution made and entered upon its minutes, which resolution may, in the discretion of said board, become effective at a future date to be therein specified, but not more than ninety (90) days after the adoption of such resolution.

Hearing—notice.

Resolution.

At the time of such dissolution of a district, the county commissioners shall dispose of an unexpended balance of moneys levied and collected under the provisions of section 16-1717 by transferring such moneys to the county general fund, and the levy provided in said section shall cease to be effective. All materials and equipment purchased by the county commissioners under the provisions of section 16-1718 shall be disposed of by sale as provided for in section 16-1009, Revised Codes of Montana of 1947, or laws amendatory thereto, and all moneys received from such sale shall be deposited with the county treasurer to the credit of the county general fund."

Disposition of funds.

Approved February 22, 1965.

CHAPTER 48

An Act to Amend Section 26-215, R. C. M. 1947, of the Fish and Game Law Authorizing the State Fish and Game Commission to Promulgate and Enforce Rules and Regulations Governing the Hunting of Nongame

HeinOnline -- 1965 95 1965

Animals in the Interest of Public Safety and Protection of Property.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-215, R. C. M. 1947, is hereby amended to read as follows:

Exemptions from general provisions.

"26-215. *Exemption from general provisions.* (a) The provisions of the *fish and game laws* shall not apply to persons pursuing, hunting, capturing, shooting, killing, taking or trapping, or attempting to kill, take or trap predatory animals, prairie dogs, ground squirrels, jackrabbits, gophers, or English sparrows, crows, hawks, fish ducks, blue heron, snow owls, great grey owls, great horned owls, blackbirds, kingfishers, magpies, jays and eagles, which may be pursued, hunted, taken, killed, shot, trapped, possessed or transported at any time *except as specifically set forth herein and enforced pursuant to section 26-324, R. C. M. 1947.*

(b) It shall be illegal to hunt jackrabbits on private land with artificial light unless written permission of the landowner, lessee or agent is obtained.

(c) Minors under fifteen (15) years of age may fish for and take fish, during the open season without a license."

Effective immediately.

Section 2. This act shall be effective upon passage and approval.

Approved February 22, 1965.

CHAPTER 49

An Act Amending Section 92-438, Defining an Independent Contractor and Relating to Legal Defense of Independent Contractor.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 92-438, R. C. M. 1947, is amended to read as follows:

"Independent contractor."

"92-438. 'An independent contractor' is one who renders service in the course of an occupation, representing the will of his employer only as the result of his work,

HeinOnline -- 1965 96 1965

and not as to the means by which it is accomplished. *But the legal defense of independent contractor shall not bar otherwise compensable industrial accident claims against employers except when such defense is interposed on behalf of a party who has previously required the claimant's immediate employer to come within the workmen's compensation act.*"

Legal defense of independent contractor not a bar.

Exception.

Approved February 24, 1965.

CHAPTER 50

An Act Amending Section 92-410, Defining Employer.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 92-410, R. C. M. 1947, be amended to read as follows:

Amending clause.

"92-410. 'Employer' means the state and each county, city and county, city school district, irrigation district, all other districts established by law and all public corporations and quasi-public corporations and public agencies therein and every person, *every prime contractor and every independent contractor,* firm, voluntary associations and private corporation, including any public service corporation and including an independent contractor, who has any person in service, in hazardous employment, under any appointment or contract of hire, expressed or implied, oral or written, and the legal representative of any deceased employer or the receiver or trustee thereof."

"Employer."

Approved February 24, 1965.

CHAPTER 51

An Act Relating to Industrial Development; to Define Terms; to Provide for the Acquisition, Purchase, Construction, Reconstruction, Improvement, Betterment and Extension of Industrial Development by Cities, Towns and Counties for the Prescribed Uses and Purposes; to Authorize and Regulate the Issuance of Mortgages and Revenue Bonds for Financing Such In-

HeinOnline -- 1965 97 1965

dustrial Development as Prescribed; to Provide for Payment of Such Mortgages and Bonds; to Provide for Leasing of Property; and to Provide for Payment of Taxes.

Be it enacted by the Legislative Assembly of the State of Montana:

Municipality.

Section 1. As used in this act, unless the context otherwise requires: (1) Municipality shall mean any incorporated city or town in the state;

Project.

(2) Project shall mean any land, any building or other improvement, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use for manufacturing or industrial enterprises;

Governing body.

(3) Governing body shall mean the board or body in which the general legislative powers of the municipality or county are vested; and

Mortgage.

(4) Mortgage shall mean a mortgage or a mortgage and deed of trust, or other security device.

Additional powers of municipalities and counties.

Section 2. In addition to any other powers which it may now have, each municipality and each county shall have without any other authority the following powers: (1) To acquire, whether by construction, purchase, devise, gift or lease, or any one or more of such methods, one or more projects, which shall be located within this state, and may be located within, without, partially within or partially without the municipality or county;

Lease projects.

(2) To lease to others any or all of its projects for such rentals and upon such terms and conditions as the governing body may deem advisable and as shall not conflict with the provisions of this act;

Issue bonds.

(3) To issue revenue bonds for the purpose of defraying the cost of acquiring or improving any project or projects, and to secure the payment of such bonds as provided in this act, which revenue bonds may be issued in two (2) or more series or issues where deemed advisable, and each such series or issue may contain different maturity dates, interest rates, priorities on revenues available for payment of such bonds and priorities on securities available for guaranteeing payment thereof, and such other differing terms and conditions as are

HeinOnline -- 1965 98 1965

deemed necessary and are not in conflict with the provisions of this act; and

Property —transfer.

(4) To sell and convey any real or personal property acquired as provided by subdivision (1) of this section, and make such order respecting the same as may be deemed conducive to the best interest of the municipality or county; provided, that such sale or conveyance shall be subject to the terms of any lease but shall be free and clear of any other incumbrance.

No power to operate a project as a business.

No municipality or county shall have the power to operate any project, referred to in this section, as a business or in any manner except as the lessor thereof, nor shall they have any power to acquire any such project, or any part thereof, by condemnation.

Municipal or county bonds— limitations.

Section 3. (1) All bonds issued by a municipality or county under the authority of this act shall be limited obligations of the municipality or county. Bonds and interest coupons, issued under the authority of this act, shall not constitute nor give rise to a pecuniary liability of the municipality or county or a charge against its general credit or taxing powers. Such limitation shall be plainly stated upon the face of each of such bonds.

Bonds—issuance and form.

(2) The bonds, referred to in subsection (1) of this section, may (a) be executed and delivered at any time and from time to time, (b) be in such form and denominations, (c) be of such tenor, (d) be in registered or bearer form either as to principal or interest or both, (e) be payable in such installments and at such time or times not exceeding thirty (30) years from their date, (f) be payable at such place or places, (g) bear interest at such rate or rates, payable at such place or places, and evidenced in such manner, (h) be redeemable prior to maturity, with or without premium, and (i) contain such provisions not inconsistent herewith, as shall be deemed for the best interest of the municipality or county and provided for in the proceedings of the governing body whereunder the bonds shall be authorized to be issued.

Bonds—sale.

(3) Any bonds, issued under the authority of this act, may be sold at public or private sale in such manner and at such time or times as may be determined by the governing body to be most advantageous. The municipality or county may pay all expenses, premiums and commis-

HeinOnline -- 1965 99 1965

sions which the governing body may deem necessary or advantageous in connection with the authorization, sale and issuance thereof from the proceeds of the sale of said bonds or from the revenues of the projects.

Bonds to be negotiable.

(4) All bonds, issued under the authority of this act, and all interest coupons applicable thereto shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

Bonds—security.

Section 4. (1) The principal of and interest on any bonds issued under the authority of this act (a) shall be secured by a pledge of the revenues out of which such bonds shall be made payable, (b) may be secured by a mortgage covering all or any part of the project, and (c) may be secured by a pledge of the lease of such project, or (d) may be secured by such other security device as may be deemed most advantageous by the issuing authority.

Bonds—authorization proceedings.

(2) The proceedings, under which the bonds are authorized to be issued under the provisions of this act, and any mortgage given to secure the same may contain any agreements and provisions customarily contained in instruments securing bonds, including, without limiting the generality of the foregoing, provisions respecting (a) the fixing and collection of rents for any project covered by such proceedings or mortgage, (b) the terms to be incorporated in the lease of such project, (c) the maintenance and insurance of such project, (d) the creation and maintenance of special funds from the revenues of such project, and (e) the rights and remedies available in the event of a default to the bondholders or to the trustee under a mortgage, all as the governing body shall deem advisable and as shall not be in conflict with the provisions of this act; provided, that in making any such agreements or provisions a municipality or county shall not have the power to obligate itself except with respect to the project and the application of the revenues therefrom, and shall not have the power to incur a pecuniary liability or a charge upon its general credit or against its taxing powers.

Bonds—remedies for default.

(3) The proceedings authorizing any bonds under the provisions of this act and any mortgage securing such bonds may provide that, in the event of a default in the payment of the principal of or the interest on such bonds

HeinOnline -- 1965 100 1965

or in the performance of any agreement contained in such proceedings or mortgage, such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents and to apply the revenues from the project in accordance with such proceedings or the provisions of such mortgage.

Mortgages—remedies for default.

(4) Any mortgage, made under the provisions of this act, to secure bonds issued thereunder, may also provide that, in the event of a default in the payment thereof or the violation of any agreement contained in the mortgage, the mortgage may be foreclosed and sold under proceedings in equity or in any other manner now or hereafter permitted by law. Such mortgage may also provide that any trustee under such mortgage or the holder of any of the bonds secured thereby may become the purchaser at any foreclosure sale if the highest bidder therefor. No breach of any such agreement shall impose any pecuniary liability upon a municipality or county or any charge upon their general credit or against their taxing powers.

Leasing requirements.

Section 5. (1) Prior to the leasing of any project, the governing body must determine and find the following: The amount necessary to pay the principal of and the interest on the bonds proposed to be issued to finance such project; the amount necessary to be paid into any reserve funds which the governing body may deem it advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project including taxes; and, unless the terms under which the project is to be leased provide that the lessee shall maintain the project and carry all proper insurance with respect thereto, the estimated cost of maintaining the project in good repair and keeping it properly insured.

Findings of governing body.

(2) The determinations and findings of the governing body, required to be made by subsection (1) of this section, shall be set forth in the proceedings under which the proposed bonds are to be issued. Prior to the issuance of the bonds authorized by this act, the municipality or county shall lease the project to a lessee or lessees under an agreement conditioned upon completion of the project and providing for payment to the municipality or county of such rentals as, upon the basis of such determinations and findings, will be sufficient (a) to pay the principal of

Lease agreement.

HeinOnline -- 1965 101 1965

and interest on the bonds issued to finance the project, (b) to pay the taxes on the project, (c) to build up and maintain any reserves deemed by the governing body to be advisable in connection therewith, and (d) unless the agreement of lease obligates the lessees to pay for the maintenance and insurance of the project, to pay the costs of maintaining the project in good repair and keeping it properly insured. Subject to the limitations of this act, the lease or extensions or modifications thereof may contain such other terms and conditions as may be mutually acceptable to the parties, and notwithstanding any other provisions of law relating to the sale of property owned by municipalities and counties, such lease may contain an option for the lessees to purchase the project on such terms and conditions as may be mutually acceptable to the parties.

Lease—terms and conditions.

Bonds—refunding.

Section 6. Any bonds issued under the provisions of this act and at any time outstanding may at any time and from time to time be refunded by a municipality or county by the issuance of its refunding bonds in such amount as the governing body may deem necessary but not exceeding an amount sufficient to refund the principal of the bonds to be so refunded, together with any unpaid interest thereon and any premiums and commissions necessary to be paid in connection therewith; provided, that an issue of refunding bonds may be combined with an issue of additional revenue bonds on any project when the combined total meets the requirements of subsection (5) of section 5 of this act. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the payment of the bonds to be refunded thereby, or by exchange of the refunding bonds for the bonds to be refunded thereby; provided, that the holders of any bonds to be so refunded shall not be compelled without their consent to surrender their bonds for payment or exchange prior to the date on which they are payable by maturity date, option to redeem, or otherwise, or, if they are called for redemption, prior to the date on which they are by their terms subject to redemption by option or otherwise. Any refunding bonds issued under the authority of this act shall be subject to the provisions

HeinOnline -- 1965 102 1965

contained in section 3 of this act and may be secured in accordance with the provisions of section 4 of this act.

Sale of bonds—application of proceeds.

Section 7. The proceeds from the sale of any bonds issued under authority of this act shall be applied only for the purpose for which the bonds were issued; provided, that any accrued interest and premium received in any such sale shall be applied to the payment of the principal of or the interest on the bonds sold; and provided further, that if for any reason any portion of such proceeds shall not be needed for the purpose for which the bonds were issued, then such unneeded portion of said proceeds shall be applied to the payment of the principal of or the interest on said bonds. The cost of acquiring or improving any project shall be deemed to include the following: The actual cost of acquiring or improving real estate for any project; the actual cost of construction of all or any part of a project which may be constructed, including architects' and engineers' fees, all expenses in connection with the authorization, sale and issuance of the bonds to finance such acquisition or improvement; and the interest on such bonds for a reasonable time prior to construction, during construction, and for not exceeding six (6) months after completion of construction.

Cost to include.

Taxation of projects.

Section 8. Notwithstanding that title to a project may be in a municipality or county, such projects shall be subject to taxation to the same extent, in the same manner, and under the same procedures as privately owned property in similar circumstances, if such projects are leased to or held by private interests on both the assessment date and the date the levy is made in any year; but such projects shall not be subject to taxation in any year if they are not leased to or held by private interests on both the assessment date and the date the levy is made in any year; provided, that where personal property owned by a municipality or county is taxed under this section and such personal property taxes are delinquent, levy by distress warrant for collection of such delinquent taxes may only be made on personal property against which such taxes are levied.

Exemption.

Act is not a restriction or limitation of powers.

Section 9. Neither this act nor anything herein contained shall be construed as a restriction or limitation upon any powers which a municipality or county might

HeinOnline -- 1965 103 1965

otherwise have under any laws of this state, but shall be construed as cumulative.

State planning board—advice.

Section 10. The state planning board shall furnish advice and information in connection with a project when requested to do so by a county or municipality.

Validity of act.

Section 11. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration of invalidity shall not affect the validity of the remaining portions thereof.

Approved February 24, 1965.

CHAPTER 52

An Act to Amend Section 32-2173 of the Revised Codes of Montana, 1947, to Require the Driver of a Motor Vehicle Entering a Highway from an Approach Ramp to Yield the Right of Way to All Approaching Traffic.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-2173 of the Revised Codes of Montana, 1947, is amended to read as follows:

Vehicle entering highway to yield.

"32-2173. **Vehicle entering highway from private road, driveway** *or public approach ramp.* The driver of a vehicle about to enter or cross a highway from a private road, driveway *or public approach ramp* shall yield the right of way to all vehicles approaching on said highway."

Approved February 25, 1965.

CHAPTER 53

An Act Requiring the Inclusion of a Fiscal Note in All Bills Having an Effect on the Revenues, Expenditures or Fiscal Liability of the State.

Be it enacted by the Legislative Assembly of the State of Montana:

Revenue bills—fiscal notes—when.

Section 1. All bills reported out of a committee of the legislative assembly having an effect on the revenues, expenditures or fiscal liability of the state, except appropriation measures carrying specific dollar amounts, shall

HeinOnline -- 1965 104 1965

include a fiscal note incorporating an estimate of such effect. Fiscal notes shall be requested by the presiding officer of either house, who shall determine the need for the note at the time of introduction.

State budget director.

Section 2. The state budget director, in cooperation with the agency or agencies affected by the bill, is responsible for the preparation of the fiscal note and shall return same within six (6) days.

Completed fiscal note.

Section 3. A completed fiscal note shall be submitted by the budget director to the presiding officer who requested it, who shall refer it to the committee considering the bill. If the bill is printed, the note shall be mimeographed and placed on the members' desks.

Fiscal notes —to show.

Section 4. Fiscal notes shall, where possible, show in dollar amounts the estimated increase or decrease in revenues or expenditures, costs which may be absorbed without additional funds, and long-range financial implications. No comment or opinion relative to merits of the bill shall be included; however, technical or mechanical defects may be noted.

Requested fiscal notes.

Section 5. A fiscal note also may be requested on a bill by:

(1) A committee considering the bill, or

(2) A majority of the members of the house in which the bill is to be considered, at the time of second reading; providing, however, section 5 of this act shall not apply six (6) days before the close of transmittal of bills and/or shall not apply after the fifty-fourth day.

Background information.

Section 6. The budget director shall make available on request to any member of the legislative assembly all background information used in developing a fiscal note.

Approved February 25, 1965.

CHAPTER 54

An Act to Amend Section 32-2177 of the Revised Codes of Montana, 1947, Relating to Pedestrians' Right of Way in Crosswalk; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.

HeinOnline -- 1965 105 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-2177 of the Revised Codes of Montana, 1947, be amended to read as follows:

Pedestrians' right of way in crosswalk —limitation.

"32-2177. **Pedestrians' right of way in crosswalk.** (a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. This provision shall not apply under the conditions stated in section 32-2178(b).

Vehicle stopped at crosswalk— overtaking vehicles.

"(b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

School children crossing a street— unlawful to drive —where.

"(c) It is unlawful for any person to drive a motor vehicle through a column of school children crossing a street or highway or past a member of the school safety patrol while the member of the school safety patrol is directing the movement of children across a street or highway and while the school safety patrol member is holding his official signal in the stop position."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall take effect from date of its passage and approval.

Approved February 25, 1965.

CHAPTER 55

An Act to Revise the Commercial Fertilizer Law by Amending Section 3-1715 and 3-1727, R. C. M. 1947; Providing a Registration Fee for Soil Amendments;

HeinOnline -- 1965 106 1965

Providing That All Fees be Deposited in the Earmarked Revenue Fund; Providing for Penalties for Violations of the Commercial Fertilizer Act; and Repealing Sections 3-1701, 3-1702, 3-1703, 3-1704, 3-1705, 3-1706, 3-1707, 3-1708, 3-1709, 3-1710, and 3-1711, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 3-1715, R. C. M. 1947, is hereby amended to read as follows: Amending clause.

"3-1715. (a) Each brand and grade of commercial fertilizer and each 'soil amendment' shall be registered before being offered for sale, sold or distributed in this state. The application for registration shall be submitted to the commissioner on a form furnished by the commissioner and shall be accompanied by a fee of thirty-five dollars ($35) per brand and ten dollars ($10) per grade *for each fertilizer and for each soil amendment guaranteeing plant nutrients and claiming value as a fertilizer. The registration fee shall be five dollars ($5) for each soil amendment making no guarantees for plant nutrients or claims for fertilizer value. All fees collected* shall be deposited in the state treasury to the credit of the *earmarked revenue fund and shall be used for the expenses of administering this act.* Upon approval by the commissioner, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31 of each year. The application shall include the following information: Commercial fertilizer to be registered before sale. Fees. Registration fees. Use of fees. Application to include.

(1) The brand and grade.

(2) The guaranteed analysis.

(3) The sources from which the nitrogen, phosphorus and potassium are derived.

(4) The commissioner may require a manufacturer of commercial fertilizer *or soil amendment* to furnish additional information if the foregoing does not adequately describe the fertility value claimed and/or the composition of the product.

(5) The name and address of the registrant.

(b) A distributor shall not be required to register any brand or grade of commercial fertilizer which is already registered under this act by another person. Prior registration.

HeinOnline -- 1965 107 1965

Uniformity of content.

(c) The plant nutrient content of each and every brand and grade of commercial fertilizer must remain uniform for the period of registration.

Blending of materials to customer's order —license.

(d) Any distributor who blends or mixes fertilizer materials to a customer's order without a guaranteed analysis of the mixture in accordance with part (a) of this section, must first make application to obtain a license from the commissioner. The application for such a license shall be submitted in duplicate to the commissioner on forms furnished by the commissioner and shall be accompanied by a fee as herein prescribed which sum shall constitute the license fee in event the license is granted. If said distributor blends or mixes fertilizer materials at more than one fixed location, or by more than one mobile mechanical unit, then a license is required for each location and for each such mobile mechanical unit. The licenses shall be twenty-five dollars ($25) in the case of each location, but in the case of mobile units each such unit owned and operated by any one distributor shall be licensed at a rate of twenty-five dollars ($25) for the first unit, and ten dollars ($10) for each such additional mobile unit. The license shall expire on December 31 of each year.

More than one location.

Fees.

Fees—use.

Fees so collected shall *be deposited in the state treasury to the credit of the earmarked revenue fund and shall be used for the expenses of administering this act.* Each licensee shall furnish the commissioner with a confidential written statement of the tonnage of each grade of fertilizer material used by him in this state in his blending and mixing operation. Said statement shall cover the semi annual periods ending June 30 and December 31 of each year, and shall be filed with the commissioner not later than 30 days (which may be extended on valid reason *therefor* an additional thirty days, on written requests to the commissioner) after the close of each semi-annual period. In lieu of the guaranteed analysis, the licensee must furnish to each and every purchaser and consumer in written or printed form, an invoice or delivery ticket showing the net weight and guaranteed analysis of each and every one of the materials used, which shall accompany delivery.

Statement of material used by licensee.

In lieu of guaranteed analysis.

Uniformity of mixture.

The distributor shall at all times produce an intimate and uniform mixture of fertilizer materials or soil amendments. When two or more fertilizers are delivered in the

HeinOnline -- 1965 108 1965

same load, they shall be intimately and uniformly mixed unless they are in separate compartments.

Power of commissioner.

The commissioner is authorized and empowered to cancel the license as herein provided upon satisfactory evidence that the licensee has used fraudulent and deceptive practices in the evasions or attempted evasions of the provisions of this section; provided that no license shall be revoked or refused until the licensee shall have been given a hearing by the commissioner pursuant to section 3-1723 of this act."

Amending clause.

Section 2. Section 3-1727, R. C. M. 1947, is hereby amended to read as follows:

Violations—procedure.

"3-1727. (a) If it shall appear from the examination of any commercial fertilizer that any of the provisions of this act or the rules and regulations issued thereunder have been violated, the commissioner shall cause notice of the violations to be given to the registrant, distributor, or possessor from whom said sample was taken; any person so notified shall be given opportunity to be heard under such rules and regulations as may be prescribed by the commissioner. If it appears after such a hearing, either in the presence or absence of the person so notified, that any of the provisions of this act or rules and regulations issued thereunder have been violated, the commissioner may certify the facts to the proper prosecuting attorney.

Conviction—penalties.

(b) Any person convicted of violating any of the provisions of this act or the rules and regulations issued thereunder or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent said commissioner or his duly authorized agent in performance of his duty in connection with the provisions of this act, shall be adjudged guilty of a misdemeanor and shall be fined not less than three hundred dollars ($300) or more than five hundred dollars ($500) for the first violation, and not less than three hundred dollars ($300) or more than one thousand dollars ($1,000) for a subsequent violation. In all prosecutions under this act involving the composition of a lot of commercial fertilizer, a certified copy of the official analysis signed by the chemist shall be accepted as prima facie evidence of the composition.

Warnings.

(c) Nothing in this act shall be construed as requiring the commissioner or his representative to report for

HeinOnline -- 1965 109 1965

prosecution or for the institution of seizure proceedings minor violations of the act when he believes that the public interests will be best served by a suitable notice of warning in writing.

Duty of prosecuting attorney.

(d) It shall be the duty of each prosecuting attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

Injunction.

(e) The commissioner is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this act or any rule or regulation promulgated under the act notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.

Hearing in district court.

(f) Any person adversely affected by an act, order or ruling made pursuant to the provisions of this act may within forty-five (45) days thereafter bring action in the district court. of the county or any county where the alleged violation giving rise to the commissioner's act, order or ruling occurred, for new trial of the issues bearing upon such act, order or ruling, and upon such trial the court may issue and enforce such orders, judgments or decrees as the court may deem proper, just and equitable."

Repealing clause.

Section 3. Sections 3-1701, 3-1702, 3-1703, 3-1704, 3-1705, 3-1706, 3-1707, 3-1708, 3-1709, 3-1710 and 3-1711, R. C. M. 1947, are hereby repealed.

Approved February 25, 1965.

CHAPTER 56

An Act Amending the Professional Service Corporation Act of Montana to Include Nurses as One of the Professional Services Included Within the Provisions of the Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 15-2103, R. C. M. 1947, is amended to read as follows:

Definitions.

"15-2103. **Definitions.** As used in this act, the following words shall have the meaning indicated:

HeinOnline -- 1965 110 1965

"Professional service."

(1) The term 'professional service' means any professional service rendered by attorneys, certified public *accountants,* public accountants, chiropractors, dentists, osteopaths, doctors of medicine, chiropodists, architects, veterinarians, optometrists, *nurses* and professional engineers.

"Professional corporation."

(2) The term 'professional corporation' means a corporation which is organized under this act for the sole and specific purpose of rendering professional service, and which has as its shareholders only individuals who themselves are duly licensed or otherwise legally authorized within this state to render the same professional service as the corporation."

Approved February 25, 1965.

CHAPTER 57

An Act Relating to Validation of Judicial Sales of Real Property and Curing Defects or Irregularities in the Issuance of Execution, Manner of Making or Conducting the Sale, or in the Recitals or References in Sheriffs' Deeds, and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Judicial sales of real property —validity.

Section 1. All judicial sales of real property which previous to the effective date of this act, provided no action is now pending to set such sale aside, where made in this state on proceedings to satisfy valid judgments or decrees of any court and the moneys bidden thereon paid to the officer making such sale, shall be valid and sufficient in law to sustain a sheriff's deed based on such sale, and when no such deed has been executed, shall entitle such purchaser to such deed; and such deed if now or when executed shall be sufficient to convey all the title of judgment debtor at the time of such sale in the premises so sold to the purchaser at said sale, and all defects or irregularities in the issuance of execution, or the manner of making or conducting the sale, or in the recitals or references in such deed, shall be disregarded and such sale shall not be invalidated by reason of any such defect or irregularity.

HeinOnline -- 1965 111 1965

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1965.

CHAPTER 58

An Act Validating Certain Instruments Affecting Real Property and Which Were Erroneously Executed or Acknowledged, Imparting Notice by Recording Thereof, Providing That Duly Certified Copies Thereof May be Read in Evidence With Like Effect as Copies of an Instrument Duly Acknowledged and Recorded, Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Instruments affecting real property—validity.

Section 1. Any instrument affecting real property, provided no action is now pending to set such instrument aside, which was, previous to the date this act takes effect, copied into the proper book, kept in the office of the county clerk and recorder, shall be deemed to impart, after that date, notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission, or informality in the execution of the instrument or in the certificate of acknowledgment thereof, or the absence of any such certificate; and all such instruments heretofore acknowledged by the vice-president and assistant secretary of any corporation, or by either of them, or other person duly authorized by resolution by such corporation executing the same on behalf of the corporation, and recorded, shall be valid and shall have the same force and effect as though acknowledged by the president or secretary; but nothing herein shall be deemed to affect the rights of purchasers or encumbrancers previous to that date. Duly certified copies of the record of any such instrument may be read in evidence, with like effect as copies of an instrument duly acknowledged and recorded.

Certified copies may be read in evidence.

Approved February 25, 1965.

HeinOnline -- 1965 112 1965

CHAPTER 59

An Act to Validate All Royalty and Minerals Reservations and Agreements Applicable Thereto, Heretofore Made by Counties, Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Mineral and royalty reservations made by counties in real property conveyances —validity.

Section 1. All mineral reservations and all royalty reservations heretofore made by counties in this state in conveyances of real property whether the same are of a less or greater percentage or are different than was authorized or required by law at the time such reservations were made, and all agreements in connection with such reservations, heretofore made, are hereby ratified, confirmed and validated, provided no action is now pending to set aside any such reservation.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1965.

CHAPTER 60

An Act Validating Deeds and Conveyances in Sales of Land and Personal Property Heretofore Made by Trustees, Executors, Administrators and Guardians, Curing Defects and Irregularities in Such Sales, Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Sales by trustees, executors, administrators and guardians —validity.

Section 1. All sales, provided no action is now pending to set aside such deed or conveyance, by trustees, executors, administrators and guardians which previous to the effective date of this act, were made to purchasers for a valuable consideration, which consideration has been paid by such purchasers in good faith, and such sales shall not have been set aside by the district or probate court having jurisdiction thereof, shall be sufficient to sustain a trustee's, executor's, administrator's or guardian's deed or conveyance to such purchaser, and, in case such deed or conveyance shall not have been given, shall entitle such purchaser to such deed or conveyance; and such deed or conveyance, if now executed or when

HeinOnline -- 1965 113 1965

executed, shall be sufficient to convey to such purchaser all the title that such beneficiary, decedent or ward had in said real or personal property; and all irregularities in obtaining the order of the court for such sale, and all irregularities or defects in making or conducting such sale by said trustee, executor, administrator or guardian, shall be disregarded, and such sale shall not be invalidated by reason of any such defect or irregularity.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1965.

CHAPTER 61

An Act Relating to Group Accident and Sickness Insurance for Persons 65 Years of Age or Older, and Their Spouses; Providing Regulation of Such Insurance by the Commissioner of Insurance; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Group accident and sickness insurance for persons over 65 years of age.

Section 1. It is the purpose of this act to provide a means of more adequately meeting the needs of persons who are 65 years of age or older and their spouses for insurance coverage against financial loss from accident or disease through the combined resources and experience of a number of insurers; to make possible the fullest extension of such coverage by encouraging insurers to combine their resources and experience and to exercise their collective efforts in the development and offering of policies of such insurance to all applicants; and to regulate the joint activities herein authorized in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), as amended.

Section 2. Wherever used in this act, the following terms shall have the meanings hereinafter set forth or indicated, unless the context otherwise requires:

"Association."

(a) "Association" means a voluntary unincorporated association formed for the purpose of enabling co-operative action to provide disability insurance in accordance

HeinOnline -- 1965 114 1965

with this act in this or any other state having legislation enabling the issuance of insurance of the type provided in this act.

"Insurer." (b) "Insurer" means any insurance company which is authorized to transact disability insurance in this state.

"Extended health insurance." (c) "Extended health insurance" means hospital, surgical and medical expense insurance provided by a policy issued as provided by this act.

Joining of insurers. Section 3. Notwithstanding any other provision of this code or any other law which may be inconsistent herewith, any insurer may join with one or more other insurers, to plan, develop, underwrite, and offer and provide to any person who is 65 years of age or older and to the spouse of such person, extended health insurance against financial loss from accident or disease, or both. Such insurance may be offered, issued and administered jointly by two or more insurers by a group policy issued to a policyholder through an association formed for the purpose of offering, selling, issuing and administering such insurance. The policyholder may be an association, a trustee, or any other person. Any such policy may provide, among other things, that the benefits payable thereunder are subject to reduction if the individual insured has any other coverage providing hospital, surgical or medical benefits whether on an indemnity basis or a provision of service basis resulting in such insured being eligible for more than 100 per cent of covered expenses which he is required to pay, and any insurer issuing individual policies providing extended hospital, surgical or medical benefits to persons 65 years of age and older and their spouses may also use such a policy provision. A master group policy issued to an association or to a trustee or any person appointed by an association for the purpose of providing the insurance described in this act shall be another form of group disability insurance.

Reduction of benefits.

Master group policy.

Form of policy—offer—cancellation when. Any form of policy approved by the commissioner for an association shall be offered throughout Montana to all persons 65 and older and their spouses, and the coverage of any person insured under such a form of policy shall not be cancellable except for nonpayment of premiums unless the coverage of all persons insured under such form of policy is also cancelled.

HeinOnline -- 1965 115 1965

Licensed agents.

Section 4. Notwithstanding the provisions of Section 40-3316, any person licensed to transact disability insurance as an insurance agent, may transact extended health insurance and may be paid a commission thereon.

Associations—authorized activities.

Section 5. Any association formed for the purposes of this act, may hold title to property, may enter into contracts, and may limit the liability of its members to their respective pro rata shares of the liability of such association.

Legal action.

Any such association may sue and be sued in its associate name and for such purpose only shall be treated as a domestic corporation.

Service of process.

Service of process against such association, made upon a managing agent, any member thereof or any agent authorized by appointment to receive service of process, shall have the same force and effect as if such service had been made upon all members of the association.

Books and records.

Such association's books and records shall also be subject to examination under the provisions of Sections 40-2713 to 40-2719, inclusive, either separately or concurrently with examination of any of its member insurers.

Forms relating to insurance to be filed with the commissioner.

Section 6. The forms of the policies, applications, certificates or other evidence of insurance coverage and applicable premium rates relating thereto shall be filed with the commissioner. No such policy, contract, certificate or other evidence of insurance, application or other form shall be sold, issued or used and no endorsement shall be attached to or printed or stamped thereon unless the form thereof shall have been approved by the commissioner or 30 days shall have expired after such filing without written notice from the commissioner of

Disapproval of forms—when.

disapproval thereof. The commissioner shall disapprove the forms for such insurance if he finds that they are unjust, unfair, inequitable, misleading or deceptive or that the rates are by reasonable assumptions excessive

Rates.

in relation to the benefits provided. In determining whether such rates by reasonable assumptions are excessive in relation to the benefits provided, the commissioner shall give due consideration to past and prospective claim experience, within and outside this state, and to fluctuations in such claim experience, to a reasonable risk charge, to contribution to surplus and contingency funds, to past and prospective expenses, both within and outside this state, and to all the relevant factors within and outside this state including any differing operating meth-

HeinOnline -- 1965 116 1965

ods of the insurers joining in the issue of the policy. In exercising the powers conferred upon him by this act, the commissioner shall not be bound by any other requirement of this code with respect to standard provisions to be included in disability policies or forms.

Withdrawal of approval.

The commissioner may, after hearing upon written notice, withdraw an approval previously given, upon such grounds as in his opinion would authorize disapproval upon original submission thereof. Any such withdrawal of approval after hearing shall be by notice in writing specifying the ground thereof and shall be effective at the expiration of such period, not less than 90 days after the giving of notice of withdrawal, as the commissioner shall in such notice prescribe.

Adjustment to avoid duplication.

If and when a program of hospital, surgical and medical benefits is enacted by the federal government or the state of Montana, the extended health insurance benefits provided by policies issued under this act shall be adjusted to avoid any duplication of benefits offered by the federal or state programs and the premium rates applicable thereto shall be adjusted to conform with the adjusted benefits.

Annual report of association.

The association shall submit an annual report to the insurance commissioner which shall become pubblic information and shall provide information as to the number of persons insured, the names of the insurers participating in the association with respect to insurance offered under this act and the calendar year experience applicable to such insurance offered under this act, including premiums earned, claims paid during the calendar year, the amount of claims reserve established, administrative expenses, commissions, promotional expenses, taxes, contingency reserve, other expenses, and profit and loss for the year. The commissioner shall require the association to provide any and all information concerning the operations of the association deemed relevant by him for inclusion in the report.

Articles of association.

Section 7. The articles of association of any association formed in accordance with this act, all amendments and supplements thereto, a designation in writing of a resident of this state as agent for the service of process, and a list of insurers who are members of the associa-

HeinOnline -- 1965 117 1965

tion and all supplements thereto shall be filed with the commissioner.

Name not to deceive the public.

The name of any association or any advertising or promotional material used in connection with extended health insurance to be sold, offered, or issued, pursuant to this act shall not be such as to mislead or deceive the public.

Violation limited.

Section 8. No act done, action taken or agreement made pursuant to the authority conferred by this act shall constitute a violation of or grounds for prosecution or civil proceedings under any other law of this state heretofore or hereafter enacted which does not specifically refer to insurance.

Effective immediately.

Section 9. This act is effective on its passage and approval.

Approved February 25, 1965.

CHAPTER 62

An Act Amending Section 89-1208, R. C. M. 1947, to Increase the Salary of Irrigation District Commissioners.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 89-1208, R. C. M. 1947, is amended to read as follows:

Commissioners —compensation.

"89-1208. The commissioners, when sitting as a board or when engaged in the business of the district, shall each receive not to exceed *ten dollars ($10.00),* per day for services, and, in addition thereto, their necessary expenses in attending meetings, or when otherwise engaged on district business, including premiums on qualifying bonds and any other bonds required of them in connection with their office, provided such expenses and per diem be approved by a unanimous vote of said board.

Commissioner —interest in contract.

No commissioner or any other officer named in this act shall in any manner be interested directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor and his conviction

HeinOnline -- 1965 118 1965

thereof shall work forfeiture of his office and he shall be punished by a fine not exceeding five hundred dollars ($500.00), or by imprisonment in the county jail not exceeding six (6) months or by both such fine and imprisonment.

Commissioners —bonding.

The commissioners of said irrigation district shall each furnish a bond in the penal sum of twenty-five hundred dollars ($2500.00), with corporate surety conditioned for the faithful performance of their duties under this act, and the secretary shall furnish bond, with corporate surety, in the sum of one thousand dollars ($1000.00), conditioned for the faithful performance of his duties pursuant to this act, and for the proper and safekeeping of the records and documents of said district, in all cases where the obligations of said district, either existing or proposed, total two hundred and fifty thousand dollars ($250,000.00) or over. In all other cases the bond for said commissioners shall be in the sum of one thousand dollars ($1000.00)."

Approved February 25, 1965.

CHAPTER 63

An Act to Amend Section 31-110, R. C. M. 1947, Relating to Arrest Authority and Enforcement Power by Highway Patrolmen; Deleting a Provision Which Prohibits Patrolmen From Congregating to Suppress Riots or Preserve the Peace, Deleting Obsolete Material Relating to the Examining of Drivers and Reporting Information Concerning Unfit or Unsafe Drivers to the Licensing Authority; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 31-110, R. C. M. 1947, be, and the same is hereby amended to read as follows:

Offenses for which patrolmen may make arrest.

"31-110. **Offenses for which arrest may be made by patrolmen—murder, etc.—patrolmen when police officers —forbidden to act in labor disputes—temporary control of traffic in cities and towns—investigations of accidents —inspection of livestock.** In addition to the above duties, the highway patrol supervisor and all patrolmen

Additional authorization.

HeinOnline -- 1965 119 1965

are authorized under this act to make arrests for the following offenses committed; if committed in the presence of said supervisor or any of said patrolmen, or if committed in a rural district, upon the request of a peace officer, or if committed in a city or town of less than twenty-five hundred (2500) inhabitants, upon the request of any peace officer, or the mayor of said city or town: The crimes of murder, assault with a deadly weapon, arson, burglary, larceny, kidnaping, illegal transportation of narcotics, or violation of the Dyer act regarding the transportation of stolen automobiles. Provided, that such highway patrolmen shall have no authority and are expressly forbidden to make arrests in labor disputes or in preventing violence in connection with strikes, and shall not be permitted to perform any duties whatsoever in connection with labor disputes, strikes or boycotts.

Patrolmen forbidden to make arrests —when.

Patrolmen deemed police officers —when.

Patrolmen shall be deemed police officers in making arrests in all offenses occurring on the highways and in the use of motor vehicles or the registration thereof, and for the purpose of serving warrants of arrest in connection with such violations.

Power of patrolmen —livestock.

The patrolmen are also hereby empowered to stop any truck or motor vehicle in which livestock or livestock products are being transported and ascertain whether the driver of such truck or vehicle is rightfully in possession of such livestock or livestock products; and whenever the patrolmen have good reason to believe that such livestock or livestock products have been stolen, they are empowered to take possession of the same until such livestock or livestock products can be delivered into the custody of the sheriff or until such time as the facts as to the actual ownership can be ascertained."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act is in full force and effect upon passage and approval.

Approved February 25, 1965.

HeinOnline -- 1965 120 1965

CHAPTER 64

An Act Amending Section 16-1713, R. C. M. 1947, Relating to Mileage and Per Diem of Weed Control and Weed Seed Extermination Supervisors.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-1713, R. C. M. 1947, is amended to read as follows: Amending clause.

"16-1713. The commissioners shall appoint for each county in which a city, town, or county weed control and weed seed extermination district is created, a board of weed control and weed seed extermination supervisors, upon the creation of the first district, consisting of three members, who are owners of agricultural land within a district. They shall be appointed for a period of one, two, three (1, 2, 3) years, respectively, dating from the preceding July, and thereafter an appointment or reappointment shall be made annually for a period of three (3) years, with said appointment being made at the July meeting of the board of county commissioners. Said supervisors shall be public officers, and they shall organize by choosing a chairman and a secretary. The secretary may or may not be a member of the board. All such supervisors shall be entitled to mileage, and per diem *of ten dollars ($10) per day.* The supervisors may employ suitable and competent persons [as] assistants and employees as may be necessary and provide for their compensation. It shall be the duties of said supervisors to supervise within their county the control program." Commissioners to appoint a board of supervisors—terms —compensation. Secretary. Mileage and per diem. Duties.

Approved February 25, 1965.

CHAPTER 65

An Act to Amend Section 86-511, R. C. M. 1947, Relating to the Compensation of Trustees and Providing for Reasonable Compensation Under the Circumstances.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 86-511, R. C. M. 1947, is amended to read as follows: Amending clause.

"86-511. (7918) **Compensation of trustee.** When a declaration of trust, *created by will or otherwise, is silent* Compensation of trustee when trust is silent.

HeinOnline -- 1965 121 1965

upon the subject of or the rate or amount of compensation, the trustee is entitled to such compensation as may be reasonable under the circumstances."

Approved February 25, 1965.

CHAPTER 66

An Act Relating to the Retention by Trustees of Securities and Other Property Received Into The Trust.

Be it enacted by the Legislative Assembly of the State of Montana:

Fiduciary may hold securities or other property.

Section 1. In the absence of express provisions to the contrary in the trust instrument, any fiduciary may hold during the life of the trust all securities or other property, real or personal, received into or acquired by the trust from any source, excepting such as are purchased by the fiduciary in administering the trust, even though such securities or other property are not qualified investments.

Approved February 25, 1965.

CHAPTER 67

An Act to Amend Section 4-140 of the Revised Codes of Montana, 1947, Relating to the Application of the State Liquor Control Act of Montana to Provide That the Manufacture, Distillation, Rectification, Bottling or Processing of Liquor as These Terms Are Defined Under the Provisions of the Laws of the United States, Shall be Authorized and Permitted by Any Brewer, Distiller, Rectifier or Other Person Duly Licensed Under Any Provision of Any Statute of the United States of America in a Place and in the Manner Authorized by or Under Any Such Statute; Provided the Montana State Liquor Control Board May Make Such Regulations as it May Deem Necessary With Regard Thereto Not Inconsistent With This Act or With the Statutes of the United States or Federal Regulations Issued Pursuant Thereto.

HeinOnline -- 1965 122 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 4-140 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows: Amending clause.

"4-140. (2815.94) **Application of act.** (1) Nothing in this act shall prevent any brewer, distiller, or other person duly licensed, under the provisions of any statute of the United States of America, for the manufacture of liquor, from having or keeping liquor in a place and in the manner authorized by or under any such statute. Application of act—policy.

It is hereby declared to be the policy of the state of Montana that the manufacture of liquor including the distillation, rectification, bottling and processing as these terms are defined under the provisions of the laws of the United States shall be authorized and permitted by any brewer, distiller, rectifier or other person duly licensed under any provision of any statute of the United States of America in a place and in the manner authorized by or under any statute of the United States provided the Montana state liquor control board may make such regulations as the board deem necessary with respect thereto, not inconsistent with this act, or with the statutes of the United States of America or regulations issued under the provisions of the federal alcohol administration act, title 27, United States Code sections 201 through 212 inclusive or regulations issued under the provisions of the Internal Revenue Code, title 26, United States Code, sections 5001 through section 5693, inclusive. Policy of the state of Montana that manufacture of liquor be authorized.

(2) Nothing in this act shall prevent —

(a) The sale of liquor by any person to the board;

(b) The purchase, importation and sale of liquor by the board for the purposes of and in accordance with this act."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in effect on passage and approval. Effective immediately.

Approved February 25, 1965.

HeinOnline -- 1965 123 1965

CHAPTER 68

An Act Concerning a Winter Work Program.

Be it enacted by the Legislative Assembly of the State of Montana:

"Winter work program."

Section 1. As used in this act: (1) "Winter work program" means a program to promote and encourage the accomplishment of work that would alleviate the rolls of the unemployed during the winter months.

"Winter work committee."

(2) "Winter work committee" is a local committee appointed to effect the program.

Mayor may appoint committee.

Section 2. The mayor of any municipality may appoint a winter work committee composed of at least five (5) members. The members shall be from various economic groups including labor, industry, business, welfare and news media. In municipalities where the economic groups are represented by organizations, the mayor shall give notice to each organization that he is going to make the appointments and shall set a date by which names must be submitted. On the date set for submittal, he shall select one member from each of the economic groups.

Notice of appointments.

Term of appointment.

Section 3. Original appointments shall be for five (5), four (4), three (3), two (2) and one (1) years. The original terms shall be determined by lot. After the original appointments have expired, terms shall be for five (5) years. There shall be no compensation for service on this committee.

Committee to meet.

Section 4. The committee shall meet within ten (10) days of appointment by the mayor. They shall select a chairman and a secretary and other necessary officers. Thereafter, the committee shall meet at least quarterly and at such other times as may be necessary, convenient or desired.

Advertising.

Section 5. The committee shall work through public service advertising and through public relations to promote the winter work program.

Employment service—Co-operation.

Section 6. The employees of free public employment offices of the Montana state employment service shall cooperate with the committee.

Meetings—minutes.

Section 7. Minutes of the meetings of the committee shall be filed by the secretary of the committee with the

HeinOnline -- 1965 124 1965

mayor of the municipality who shall keep them as other public records. Members of the legislative assembly may use these minutes to determine the employment problems of the municipalities involved.

Approved February 25, 1965.

CHAPTER 69

An Act to Amend Section 62-301, R. C. M. 1947, Vesting Powers and Duties Concerning State Parks in the Fish and Game Commission; Amending Section 62-304, R. C. M. 1947, to Except Wayside Camps From Fish and Game Control; Amending Section 62-307, R. C. M. 1947, Giving the Highway Commission Powers Concerning Certain Roads; Amending Sections 62-310 and 62-311, R. C. M. 1947, Making the Fish and Game Commission Responsible for Maintaining a State Scientific and Recreational Park; Amending Section 62-314, R. C. M. 1947, Providing for Violation of Rules Relating to State Parks; Amending Section 84-1812(1), R. C. M. 1947, to Provide One Percent of Certain License Taxes for Creation, Improvement, and Maintenance of State Parks Used for Motor Boating; and Repealing Section 84-1812(2), R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 62-301, R. C. M. 1947, is amended to read as follows: Amending clause.

"62-301. That for the purpose of conserving the scenic, historic, archaeologic, scientific and recreational resources of the state, and of providing for their use and enjoyment, thereby contributing to the cultural, recreational and economic life of the people and their health, the *state fish and game* commission (hereinafter referred to as commission) is hereby vested with the duties and powers hereinafter set forth." Purpose—state fish and game commission—duties and powers.

Section 2. Section 62-304, R. C. M. 1947, is amended to read as follows: Amending clause.

"62-304. The commission is hereby authorized and directed to make a study to determine the scenic, historic, archaeologic, scientific and recreational resources of the Authorization.

HeinOnline -- 1965 125 1965

state, and shall have power by purchase, lease, agreement, or by acceptance of donations, or condemnation, to acquire for and in the name of the state, any such areas, sites or objects which in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state historical sites. The commission shall also have power in its discretion to receive and accept in the name of the state, in fee or otherwise, any such areas, sites, or objects conveyed, entrusted, donated, or devised to the state, and with like discretion to accept gifts, bequests, or contributions of money or other property to be expended or used for any of the purposes of this act; provided, that no contract shall be entered into or other obligation incurred under the provisions of this act until moneys have been appropriated therefor by the legislature or are otherwise made available as herein provided. The commission shall also have jurisdiction, custody and control of all state parks, recreational areas, public camping grounds, historical sites, and monuments which are now under the control and management of the state, *except* wayside camps and other public conveniences acquired, improved and maintained by the state highway commission and contiguous to the state highway system."

Power.

Jurisdiction.

Amending clause.

Section 3. Section 62-307, R. C. M. 1947, is amended to read as follows:

Authorization.

"62-307. The state highway commission is hereby authorized to construct, improve and maintain with state highway funds connecting roads between existing state highways and *state parks;* provided, that each such road shall not exceed a total length of ten (10) miles."

Amending clause.

Section 4. Section 62-310, R. C. M. 1947, is amended to read as follows:

Protection of biological station grounds—authorization.

"62-310. That in order to preserve and protect the biological station grounds hereafter referred to, and to remove fire hazards and the danger of other encroachments tending to detract from the scientific values and uses thereof, the state *fish and game* commission is authorized to maintain a state scientific and recreational park on a suitable area to be designated by it not exceeding fifteen (15) acres at the southeast portion of the lands granted by the United States of America to the

HeinOnline -- 1965 126 1965

state of Montana for the use of the university of Montana for biological station purposes."

Amending clause.

Section 5. Section 62-311, R. C. M. 1947, is amended to read as follows:

Fish and game commission to makes rules and regulations.

"62-311. The state *fish and game* commission shall make such rules and regulations governing *the park's* use, occupancy and the protection of the remaining lands of said grant that the use of all of said lands for biological station purposes shall be promoted and continued; and the park itself shall be so maintained as to develop and encourage public interest in the scientific and biological resources of the area; provided, however, that nothing herein contained shall operate to prevent the use of the area within the said park for biological station purposes whenever it becomes useful or necessary for such purposes.

Amending clause.

Section 6. Section 62-314, R. C. M. 1947, is amended to read as follows:

Violation and penalty.

"62-314. Any person who shall injure or damage any state or private property thereon or therein, or shall violate any of the regulations made by the state *fish and game* commission relating to the state parks, shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars ($500) or be imprisoned in the county jail for not more than six (6) months."

Amending clause.

Section 7. Section 5, Chapter 126, Laws of 1963, compiled as Section 84-1812(1), R. C. M. 1947 is amended to read as follows:

Revenue fund of state park account—source and use.

"84-1812. *One percent (1%) of* all money received in payment of license taxes under the provisions of this act *shall be deposited in the state park account in the earmarked revenue fund. All other money received,* except that amount paid out of the state board of equalization's suspense account for gasoline tax refund shall be used and expended by the state highway commission on the federal highway system of highways in this state selected and designated under the provisions of the federal aid act, approved July 11, 1916, and the federal highway act, approved November 9, 1921, and all amendments thereto, and on highways leading from each county seat in the state to said federal highway system of federal aid roads where such county seat is not on said system, and on such

HeinOnline -- 1965 127 1965

other roads as have been or may be authorized by the laws of Montana, for the collection and enforcement of this act, pursuant to the provisions of article XII, section 1 (b) of the constitution of the state of Montana; provided, that the total cost to the state for administration, dissemination of public information, and engineering on the federal aid work contemplated by this act shall not exceed for any fiscal year eight per centum (8%) of the total of state, federal aid and other available funds expended under the supervision of the state highway commission. Provided further that the expenditure for dissemination of public information shall not exceed an annual expenditure of one hundred and twenty-six thousand five hundred dollars ($126,500.00). It shall be the duty of the state highway commission, in expending such money, to carry forward construction from year to year, using the money expended through the matching up of federal aid allotments to Montana upon the said federal highway system of highways in the various parts of the state in accordance with the provisions of section 84-1817; provided that nothing in this act shall be construed to conflict with said federal aid highway acts and the rules by which they are administered. The state highway commission is authorized to enter into co-operative agreements with the national park service and the bureau of public roads for the purpose of maintaining national park approach roads in Montana.

Public information —expenditure.

Duty of state highway commission.

Co-operative agreements.

Limitation on use of funds.

Money credited to the state park account in the earmarked revenue fund shall be used only for the creation, improvement, and maintenance of state parks where motor boating is allowed. The legislative assembly hereby finds as a fact that of all the fuel sold in the state of Montana for consumption in internal combustion engines, not less than one per centum (1%) is used for propelling boats on waterways of this state."

Repealing clause.

Section 8. Section 1, Chapter 223, Laws of 1963, compiled as Section 84-1812(2) R. C. M. 1947, is repealed.

Approved February 26, 1965.

CHAPTER 70

An Act to Permit the State Board of Land Commissioners to Acquire a Tract of Land Which is of Archeological,

HeinOnline -- 1965 128 1965

Historic or Scientific Interest and Should be Preserved for Posterity; Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

State board of land commissioners to acquire a tract of land for preservation.

Section 1. The state board of land commissioners is hereby authorized to acquire Section 34, Township 1 N, Range 2E, M. P. M., which is of archeological, historic or scientific interest and should be preserved for the benefit of the people. The acquisition of such land may be by gift, bequest, purchase, lease, or exchange of other state land of equal value. The state board of land commissioners shall take title to such land in the name of the state for the use and benefit of the agency responsible for administering state parks. Upon acquisition of such land, the state agency responsible for administering state parks is hereby authorized to enter into contracts or agreements with the federal government, other departments or agencies of the state government, county and municipal government, as may be necessary to the proper care and management of the object to be protected and preserved for posterity.

Agreements for care and management.

Effective immediately.

Section 2. This act shall be in full force and effect after its passage and approval.

Approved February 26, 1965.

CHAPTER 71

An Act to Amend Section 11-3248, R. C. M. 1947, Which Fixes Salaries of Mayors and City Commissioners Under the Commission-Manager Form of City Government; by Increasing the Salaries of Such Mayors and Commissioners.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-3248, R. C. M. 1947, is amended to read as follows:

Compensation of commissioners and mayor.

"11-3248. (5447) **Compensation of commissioners and mayor.** The salary of each commissioner *may* be as follows: For each meeting attended, cities or towns with less than twenty-five thousand inhabitants, *twenty dollars ($20.00);* cities with more than twenty-five thousand inhabitants, not to exceed *forty dollars ($40.00);* provided,

Limitation.

HeinOnline -- 1965 129 1965

that not more than one fee shall be paid for any one day. The salary of the commissioner acting as mayor *may* be one and one-half times that of the other commissioners."

Commissioner acting as mayor —salary.

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 26, 1965.

CHAPTER 72

An Act Amending Section 16-3205, R. C. M. 1947, Deleting the Requirement That County Auditors Reside at the County Seat; Providing That County Auditors be Paid Compensation Monthly; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-3205, R. C. M. 1947, is amended to read as follows:

County auditor— principal office— compensation.

"16-3205. The county auditor shall keep his principal office at the county seat of the county for which he shall have been elected or appointed, and he shall receive the annual compensation provided by law, payable *monthly* by warrants drawn on the treasury of the county treasurer, and shall receive no other compensation or emolument whatsoever for any service or services rendered or performed by him, except actual expenses for living and traveling whenever the duties of his office require his presence at any place in the county, other than the county seat, and then only after the same has been ordered and advised by the board of county commissioners."

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved February 26, 1965.

CHAPTER 73

An Act to Creat a Committee on Problems of Aging.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1965 130 1965

Committee on problems of aging —creation.

Section 1. There is hereby created the Committee on Problems of Aging, hereafter called "the Committee".

Committee—appointments.

Section 2. The Committee shall consist of fifteen (15) members appointed by the governor as follows: One (1) member each from the following offices: state board of health, department of public institutions, Montana medical association, public employees retirement system, department of public welfare, Montana nurses association, Montana nursing home association, the legislative assembly. Seven (7) citizen members shall be selected on the basis of active interest, experience and ability, none of whom shall be employees of the state. Five (5) Committee members shall be appointed initially for terms of one (1) year; five (5) shall be appointed initially for terms of two (2) years, five (5) shall be appointed initially for terms of three (3) years. An appointment to replace a member whose term has expired shall be for three (3) years. An appointment to replace a member whose term has not expired shall be for the remainder of the term.

Replacements.

Majority to constitute a quorum —officers.

Section 3. A majority of the members of the Committee shall constitute a quorum for the transaction of business. The Committee shall elect a chairman, a vice-chairman, a secretary and such other officers as it deems necessary. The Committee shall meet on call of the chairman of the committee or the governor.

Duties.

Section 4. The Committee shall: 1. Consult with and advise organized efforts by communities, organizations, associations and groups that are working toward any and all forms of assistance to problems of aging.

2. Study and identify problems of aging.

3. Review existing programs for the aging and make recommendations to the governor and the legislature for improvements in such programs.

4. Encourage the sponsorship of community projects which will seek to make optimum use of the time and talents of retired persons.

Grants or gifts.

Section 5. The Committee may receive on behalf of the state any grant from the federal government or any grant or gift from any source and accept the same so that the title shall pass to the state. All grants, grants-

HeinOnline -- 1965 131 1965

in-aid, or gifts shall be deposited with the state treasurer and shall be continuously available to the Committee.

Reports.

Section 6. The Committee shall report to the governor and legislative assembly prior to the end of each even numbered year.

Effective immediately.

Section 7. This act shall be in full force and effect from and after its passage and approval.

Approved February 26, 1965.

CHAPTER 74

An Act to Amend Section 75-3403 R. C. M. 1947, Authorizing School Board Trustees to Purchase or Rent Buses and Provide for Their Upkeep and for Two-Way Radios for Said Buses; Providing for Contracts for Transportation Not in Excess of Five (5) Years; Providing for School Bus Depreciation Reserve Not in Excess of Twenty Per Cent (20%) Per Year to Replace Original Cost of School Buses; Providing For a Repealing Clause; Providing For an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-3403, R. C. M. 1947, is amended to read as follows:

Operation of buses by school board—powers of trustees.

"75-3403. **School board may operate buses or contract for transportation of pupils—school board may set up depreciation reserve for purchase of replacement buses and two-way radios for school bus or buses.** The board of trustees shall have the power to purchase, or rent and provide for the upkeep, care, operation, maintenance, insurance, for two-way radios and for school buses; or to contract and pay for the transportation of eligible pupils, such contracts to run for terms not to exceed five (5) years; and provided further, that each district owning a school bus or buses may levy a sufficient number of mills to create a reserve of not to exceed *twenty per cent (20%)* per year of the original cost of the bus or buses for which the reserve is created; said fund to be kept separate and apart from all other funds, and to be used only for the purchase of the bus or buses needed to replace the bus or buses and two-way radios for which said reserve was

HeinOnline -- 1965 132 1965

created, unless authorized by a majority of the votes cast by the qualified electors of the district at an election called for that purpose. Provided, however, that school district trustees may authorize as standard equipment, the installation of two-way radios in a school bus or buses operating in school districts where weather and road conditions may constitute a hazard to the safety of the school pupil passengers. The two-way radios may be operated on the same frequency as that used by the Montana highway patrol and the sheriff of the county, with their permission and the permission of the federal communications commission wherein said school bus or buses operate, or any frenquency assigned for such operation by the commission."

Two-way radios as standard equipment.

Frequency of radios.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be effective upon its passage and approval.

Effective immediately.

Approved February 26, 1965.

CHAPTER 75

An Act Validating, Ratifying, Approving and Confirming Bonds and Other Instruments or Obligations, Heretofore Issued by Public Bodies of This State, and All Proceedings Heretofore Taken by Such Public Bodies, to Authorize and Issue Such Bonds, Instruments and Other Obligations, However Described, and Providing That This Act May be Cited as "The 1965 Bond Validating Act"; Containing a Repealing Clause and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act may be cited as "The 1965 Bond Validating Act."

"The 1965 bond validating act."

Section 2. The following terms, wherever used or referred to in this act, shall have the following meanings:

(1) The term "public body" shall include a county, city, town, school district, irrigation district, drainage district, special improvement district, or any other politi-

"Public body."

HeinOnline -- 1965 133 1965

cal or governmental subdivision of the State of Montana, and shall also include the state board of education, the state board of examiners, the state water conservation board, the state highway commission, or any other governmental agency of this state.

"Bonds."

(2) The term "bonds" shall include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

Bonds issued are validated.

Section 3. All bonds heretofore issued by any public body of this state, and all proceedings heretofore taken for the authorization and issuance of such bonds, for the levy, establishment, pledge and appropriation of taxes, special assessments and other charges and revenues to pay such bonds, and for the sale, exchange, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, exchange, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings or in such sale, exchange, execution or delivery, and bonds of such public bodies, whether heretofore issued or hereafter issued under the authority of proceedings heretofore taken, are and shall be binding, legal, valid and enforceable obligations of such political body.

Actions prior to January 1, 1965, exempt.

Section 4. This act shall not apply to or affect any action or appeal instituted on or before January 1, 1965, in which the validity of any such proceedings or of any such bonds is at issue.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 6. This act is effective on its passage and approval.

Approved February 26, 1965.

HeinOnline -- 1965 134 1965

CHAPTER 76

An Act Relating to the Uniform Commercial Code of Montana by Adding a New Section to be Known and Codified as Section 87A-9-408, Relating to the Filing by Certain Public Utilities of Certain Instruments Required to be Filed Under the Provisions of the Uniform Commercial Code; Providing for a Repealing Clause; Providing for a Severability Clause; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Defintions.** As used in this Act,

Definitions. "Transmitting utility."

(a) "Transmitting Utility" means any corporation or other business entity primarily engaged, pursuant to rights or franchises issued by and subject to the jurisdiction of a state or federal regulatory body, in the railroad or street railway business, the telephone or telegraph business, the transmission of oil, gas or petroleum products by pipe line, or the transmission or the production and transmission of electricity, steam gas or water.

(b) "Unform Commercial Code" means Chapters 1 through 10 of Title 87A of the Revised Codes of Montana, 1947.

"Uniform Commercial Code."

Section 2. **Financing Statements of a transmitting utility, notwithstanding Sections 87A-9-302(3), 87A-9-302(4), 87A-9-401(1), and 87A-9-402 of the Uniform Commercial Code.**

Financing statements of a transmitting utility.

(a) If filing is required under the Uniform Commercial Code, the proper place to file in order to perfect a security interest in personal property or fixtures of a Transmitting Utility is in the office of the Secretary of State;

(b) When the financing statement covers goods of a Transmitting Utility which are or are to become fixtures, no description of the real estate concerned is required;

(c) A security interest in rolling stock of a Transmitting Utility may be perfected either as provided in Section 20 (c) of the Interstate Commerce Act or by filing a financing statement pursuant to the Uniform Commercial Code as provided in Sub-section (a).

Laws to remain in effect.

Section 3. **Continued effectiveness of certain laws.** Unless displaced by the specific provisions of this Act,

HeinOnline -- 1965 135 1965

the Uniform Commercial Code and other applicable laws remain in full force and effect and supplement the provisions of this Act.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Legislative intent that valid parts of act be severable.

Section 5. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Effective immediately.

Section 6. This act shall be effective upon its passage and approval.

Approved February 26, 1965.

CHAPTER 77

An Act Amending Sections 69-3001, 69-3002, 69-3003, 69-3004, 69-3007, 69-3008, 69-3009, 69-3010, 69-3012, 69-3013, 69-3014, and 69-3015, as Amended, R. C. M. 1947, Relating to Hospital Survey and Construction; Providing for the Development and Administration of Hospital, Medical and Related Facility Construction and Alteration Programs; Providing for Compliance With Requirements of Federal Acts and Regulations to Secure Assistance in Such Programs; Designating and Authorizing the State Board of Health as the Agency of the State of Montana for the Development and Administration of Such Programs and Empowered to Contract With the Federal Government in Furtherance Thereof; Repealing Section 69-3006, R. C. M. 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-3001, R. C. M. 1947, is amended to read as follows:

'Montana Hospital, Medical and Related Facility Survey and Construction Act.'

"69-3001. **Title.** This act may be cited as the 'Montana Hospital, *Medical and Related Facility* Survey and Construction Act.' "

HeinOnline -- 1965 136 1965

Section 2. Section 69-3002, R. C. M. 1947, is amended to read as follows: Amending Clause.

"69-3002. **Definitions.** As used in this act: Definitions.

(a) 'Board' means the state board of health of the state of Montana. 'Board.'

(b) 'The Federal *Acts' mean* Title VI of the Public Health Service Act (42 U. S. C. 291 et seq.)*; Title VII of the Public Health Service Act (42 U. S. C. 2671 et seq.);* as now and hereafter amended *and federal acts hereafter enacted for the construction of medical or related facilities.* 'The Federal Acts.'

(c) *'Administering federal agency' means the respective department, commission or officer designated by or under one of the federal acts to administer the programs provided by the respective acts.* 'Administering federal agency.'

(d) 'Hospital' includes public health centers and general, tuberculosis, mental, chronic disease, and other types of hospitals, and related facilities, such as laboratories, out-patient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care. 'Hospital.'

(e) 'Public Health Center' means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with public health centers. 'Public Health Center.'

(f) 'Nonprofit Hospital' and 'Nonprofit Medical Facility' means any hospital or medical facility owned or operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual. 'Nonprofit Hospital and Nonprofit Medical Facility.'

(g) 'Director' means the principal administrative officer of the division of hospital survey and construction of the said state board of health of Montana as appointed by said board. 'Director.'

(h) 'Medical facilities' means diagnostic or diagnostic and treatment centers, rehabilitation facilities and *facilities for long term care* as those terms are defined in the 'Medical facilities.'

HeinOnline -- 1965 137 1965

federal *acts,* and such other medical facilities for which federal aid may be authorized.

'Related facility.'

(i) 'Related facility' includes a facility devoted to the diagnosis, treatment or care of individuals afflicted with mental disease or mental retardation."

Amending clause.

Section 3. Section 69-3003, R. C. M., 1947, is amended to read as follows:

Administration —hospital, medical and related facility survey and construction.

"69-3003. **Administration—hospital,** *medical and related facility* **survey and construction.**

Except where another state agency is specifically designated by law, the state board of health of the state of Montana is hereby designated as the sole agency of the state of Montana to establish and administer any statewide plan for the construction, alteration, equipment, maintenance, or operation of any hospital, medical or related facilities for the provision of care, treatment, diagnosis, rehabilitation, training, or related services, which plan is now, or may hereafter be required as a condition to the eligibility for benefits under any federal law. The state board of health, in its discretion, is authorized to, for and on behalf of the state of Montana, enter into contracts and agreements with the United States or any officer, department or bureau thereof, relative to such statewide plans, and to do those things necessary or required to secure for the people of the state of Montana the benefit of such programs as will provide adequate medical and related facilities and services.

State board of health —authorization.

Inventory by board.

The board shall make an inventory of existing hospitals, medical and related facilities; survey the need for construction or alteration of hospitals, medical and related facilities; and develop and administer a state plan for the construction and alteration of public and other nonprofit hospitals, medical and related facilities."

Amending clause.

Section 4. Section 69-3004, R. C. M., 1947, is amended to read as follows:

General powers and duties of board— authorization.

"69-3004. **General powers and duties.** In carrying out the purposes of *this* act, the board is authorized and directed:

Reports, inspections and regulations.

(a) To require such reports, make such inspections and investigations and prescribe such regulations as it deems necessary;

HeinOnline -- 1965 138 1965

(b) To provide such methods of administration, appoint a director and other personnel and take such other action as may be necessary to comply with the requirements of the federal *acts* and the regulations thereunder; Methods of administration.

(c) To procure in its discretion the temporary or intermittent services of experts or consultants, or organizations thereof, by contract, when such services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties; Procure services.

(d) To the extent that it considers desirable to effectuate the purposes of this act, to enter into agreements for the utilization of the facilities and services of other departments, agencies, and institutions, public or private; Enter into agreements.

(e) To accept on behalf of the state and to deposit with the state treasurer any grant, gift or contribution made to assist in meeting the cost of carrying out the purposes of this act, and to expend the same for such purpose; Accept grants and gifts.

(f) To make an annual report to the governor on activities and expenditures pursuant to this act, including recommendations for such additional legislation as the board considers appropriate to furnish adequate hospital, medical *and related* facilities to the people of this state." Make annual report to governor.

Section 5. Section 69-3007, R. C. M. 1947, is amended to read as follows: Amending clause.

"'69-3007. **Construction program.** The construction program shall provide, in accordance with regulations prescribed under the federal *acts*, for adequate hospital facilities, medical *and related* facilities for the people residing in this state and in so far as possible shall provide for their distribution throughout the state in such manner as to make all types of hospital, medical *and related* facilities services reasonably accessible to all persons in the state." Construction program.

Section 6. Section 69-3008, R. C. M. 1947, is amended to read as follows: Amending clause.

"69-3008. **Application for federal funds for survey and planning—expenditure.** The board is authorized to make application to the *administering federal agency* for federal funds to assist in carrying out the survey and Application for federal funds for survey and planning—expenditure.

HeinOnline -- 1965 139 1965

planning activities herein provided. Such funds shall be deposited in the state treasury and shall be available to the board for expenditure for carrying out the purposes of this part. Any such funds received and not expended for such purposes shall be repaid to the treasury of the United States."

Amending clause.

Section 7. Section 69-3009, R. C. M. 1947, is amended to read as follows:

State plans—submission to federal agency.

"69-3009. **State** *plans.* The board shall prepare and submit to the *administering federal agency* state *plans* which shall include the hospital, medical *and related* facilities construction *programs* developed under *this act* and which shall provide for the establishment, administration, and operation of hospital, medical *and related* facilities construction activities in accordance with the requirements of the federal *acts* and regulations thereunder. The board shall, prior to the submission of such *plans* to the *administering federal agency,* give adequate publicity to a general description of all the provisions proposed to be included therein, and hold a public hearing at which all persons or organizations with a legitimate interest in such *plans* may be given an opportunity to express their views. After approval of *a* plan by the *administering federal agency,* the board shall publish a general description of the provisions thereof in *newspapers* having general circulation throughout the state, and shall make the plan, or a copy thereof, available upon request to all interested persons or organizations. The board shall from time to time review the hospital, medical *and related* facilities construction *programs* and submit to the *administering federal agency* any modifications thereof which *it* may find necessary and may submit to the *administering federal agency* such modifications of the state *plans,* not inconsistent with the requirements of the federal *acts,* as *it* may deem advisable."

Plans—description—hearing.

Approval published.

Review of programs.

Amending clause.

Section 8. Section 69-3010, R. C. M. 1947, is amended to read as follows:

Minimum standards for maintenance and operation.

"69-3010. **Minimum standards for hospital, medical** *and related* **facilities maintenance and operation.** The board shall by regulation, *after consultation with the hospital, medical and related facilities advisory council,* prescribe minimum standards for the maintenance and operation of hospitals, medical *and related* facilities which receive federal aid for construction under the state plan."

HeinOnline -- 1965 140 1965

Section 9. Section 69-3012, R. C. M. 1947, is amended to read as follows: Amending clause.

"69-3012. **Construction projects—applications.** Applications for hospital, medical *and related* facilities construction projects for which federal funds are requested shall be submitted to the board and may be submitted by the state or any political subdivision thereof or by any public or nonprofit agency authorized to construct and operate a hospital or a medical *or related* facility. Each application for a construction project shall conform to federal and state requirements." Applications for construction projects—submission to board.

Section 10. Section 69-3013, R. C. M. 1947, is amended to read as follows: Amending clause.

"69-3013. **Consideration and forwarding of applications.** The board shall afford to every applicant for a construction project an opportunity for a fair hearing. If the board, after affording reasonable opportunity for development and presentation of applications in the order of relative need, finds that a project application complies with the requirements of section 69-3012 and is otherwise in conformity with the state plan, *it* shall approve such application and shall recommend and forward it to *the administering federal agency.*" Consideration and forwarding of applications.

Section 11. Section 69-3014, R. C. M. 1947, is amended to read as follows: Amending clause.

"69-3014. **Inspection of projects.** From time to time the board shall inspect each construction *or alteration* project approved by the *administering federal agency,* and, if the inspection so warrants, the board shall certify to the *administering federal agency* that work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment of federal funds is due to the applicant." Inspection of projects.

Section 12. Section 69-3015, R. C. M. 1947, as amended by section 68, chapter 147, Laws of 1963, is amended to read as follows: Amending clause.

"69-3015. **Hospital, medical** *and related* **facilities construction** *and alteration* **moneys.** The board is hereby authorized to receive federal funds *on* behalf of, and transmit them to, such applicants. Money received from the Board authorized to receive federal funds for hospital construction.

HeinOnline -- 1965 141 1965

Deposit—use.

federal government for a construction *or alteration* project approved by the *administering federal agency* shall be deposited in the state treasury and shall be used solely for payments due applicants for work performed, or purchases made, in carrying out approved projects. Claims for all payments shall, if approved by the board, bear the signature of the executive officer (secretary) of the board, or in his absence, the director."

Claims—approval—signature.

No person shall be denied use of facility on grounds of race, color, or national origin.

Section 13. No person shall be denied the use in a professional or other capacity, or be subjected to discrimination on the grounds of race, color or national origin, of any facility constructed in whole or in part under the provisions of this act.

Repealing clause.

Section 14. Section 69-3006, R. C. M., 1947, is repealed.

Effective immediately.

Section 15. This act is effective on its passage and approval.

Approved February 26, 1965.

CHAPTER 78

An Act Amending Sections 69-2901, 69-2902, 69-2903, 69-2905, 69-2906, 69-2907, 69-2908, 69-2910, 69-2911, 69-2915, 69-2916 and 69-2917, R. C. M. 1947, Relating to Hospital Licensing and Supervision by the State Board of Health to Include Licensing and Supervision of Medical Facilities and Facilities for Mental Diseases and Mental Retardation; Altering the Composition, Powers and Title of the Advisory Hospital Council With Regard to Such Licensing and Supervision; Repealing Section 69-2910.1, R. C. M. 1947; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-2901, R. C. M. 1947, is amended to read as follows:

Definitions.

"69-2901. **Definitions.** As used in this act:

'Hospital.'

(a) 'Hospital' means a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty-four hours in any week of two or more nonrelated individuals

HeinOnline -- 1965 142 1965

suffering from illness, disease, injury, or deformity, or a place devoted primarily to providing for not less than twenty-four hours in any week of obstetrical or other medical or nursing care for two or more nonrelated individuals. The term hospital includes public health centers *and medical facilities.*

(b) 'Related facility' includes a facility devoted to the diagnosis, treatment or care of individuals suffering from mental disease or mental retardation. 'Related facility.'

(c) 'Person' means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof. 'Person.'

(d) 'Governmental unit' means the state, or any county, municipality, or other political subdivision or any department, division, board or other agency of any of the foregoing. 'Governmental unit.'

(e) 'Licensing agency' means the state board of health of the state of Montana." 'Licensing agency.'

Section 2. Section 69-2902, R. C. M. 1947, is amended to read as follows: Amending clause.

"69-2902. **Purpose.** The purpose of this act is to provide for the development, establishment and enforcement of standards (1) for the care of individuals in hospitals *and related facilities* and (2) for the construction, *alteration,* maintenance and operation of hospitals *and related facilities,* which in the light of advancing knowledge, will promote safe and adequate care of such individuals in hospitals *and related facilities.*" Purpose of act to provide for standards for care of individuals in hospitals and for construction and operation of hospitals and related facilities.

Section 3. Section 69-2903, R. C. M. 1947, is amended to read as follows: Amending clause.

"69-2903. **Licensure.** After July 1, 1947, no person or governmental unit, acting severally or jointly with any other person or governmental unit shall establish, conduct or maintain a hospital *or related facility* in this state without a license under this law." Licensure—requiring licensing of hospital or related facility.

Section 4. Section 69-2905, R. C. M. 1947, is amended to read as follows: Amending clause.

"69-2905. **Issuance and renewal of license.** Upon receipt of an application for license and the license fee, the board shall issue a license if the applicant and hos- Issuance and renewal of hospital or related facility licenses.

HeinOnline -- 1965 143 1965

pital *or related* facilities meet the requirements established under this law. A license, unless sooner suspended or revoked, shall be renewable annually without charge upon filing by the licensee, and approval by the board, of an annual report upon such uniform dates and containing such information in such form as the board prescribed by regulation. Each license shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable except with the written approval of the board. Licenses shall be posted in a conspicuous place on licensed premises."

Renewable annually.

Issued for named premises.

Posting.

Amending clause.

Section 5. Section 69-2906, R. C. M. 1947, is amended to read as follows:

Denial or revocation of license—hearing and review.

"69-2906. **Denial or revocation of license—hearing and review.** The board after notice and opportunity for hearing to the applicant or licensee is authorized to deny, suspend or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements established under this law.

Notice.

Such notice shall be effected by registered mail, or by personal service setting forth the particular reasons for the proposed action and fixing a date not less than thirty days from the date of such mailing or service, at which the applicant or licensee shall be given an opportunity for a prompt and fair hearing. On the basis of any such hearing, or upon default of the applicant or licensee the board shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision revoking, suspending or denying the license or application shall become final thirty days after it is so mailed or served, unless the applicant or licensee within such thirty day period, commences an action in the district court, pursuant to section 69-2914.

Procedure in authorized hearings.

Record of proceedings.

The procedure governing hearings authorized by this section shall be in accordance with rules promulgated by the board with the advice of the hospital, *medical and related facilities advisory* council. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless the decision is reviewed pursuant to section 69-2914. A copy

HeinOnline -- 1965 144 1965

or copies of the transcript may be obtained by any interested party on payment of the cost of preparing such copy or copies. Witnesses may be subpoenaed by either party."

Witnesses —subpoena.

Section 6. Section 69-2907, R. C. M. 1947, is amended to read as follows:

Amending clause.

"69-2907. The board with the advice of the hospital, *medical and related facilities advisory* council, shall adopt, amend, promulgate and enforce such rules, regulations and standards with respect to all hospitals *and related facilities* to be licensed hereunder as may be designed to further the accomplishment of the purposes of this law in promoting safe and adequate care of individuals in hospitals *and related facilities* in the interest of public health, safety and welfare."

Board shall make rules and regulations.

Section 7. Section 69-2908, R. C. M. 1947, is amended to read as follows:

Amending clause.

"69-2908. **Effective date of regulations.** Any hospital *or related facility* which is in operation at the time of promulgation of any applicable rules or regulations or minimum standards under this act shall be given a reasonable time, under the particular circumstances not to exceed one year from the date of such promulgation, within which to comply with such rules and regulations and minimum standards."

Effective date of regulations.

Section 8. Section 69-2910, R. C. M. 1947, is amended to read as follows:

Amending clause.

"69-2910. *Hospital, medical and related facilities advisory council.* The governor shall appoint *a hospital, medical and related facilities advisory* council to advise and consult with the board in carrying out the administration of this act *and of the Montana Hospital, Medical and Related Facility Survey and Construction Act.* The council shall consist of the executive officer of the state board of health (in various acts designated as 'secretary' of said board) who shall serve as chairman ex officio, the state director of the department of public welfare, ex officio, *the director of public institutions, ex officio,* and *representatives of nongovernmental organizations or groups, and of public agencies, concerned with the operation, construction, or utilization of hospital, medical and related facilities and representatives of consumers familiar with*

Advisory council —hospital, medical and related facilities.

Council —members.

HeinOnline -- 1965 145 1965

the need for the services provided by such facilities, with the number of members as are or may be required on said council as a condition of eligibility for benefits for hospital, medical and related facilities under any Federal law.

Term of office.

Each member shall hold office for a term of *one (1) to three (3)* years, *as designated in the appointment,* except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and, the terms of office of the members shall expire,

Duration of appointments.

as designated at the time of appointment. *In designating the duration of appointments, the governor shall endeavor to avoid expiration of more than one-third of the total appointments in any twelve month period.*

Council members —compensation.

Council members while serving on the business of the council shall be entitled to receive ten dollars ($10.00) per diem, and, also, their actual and necessary travel and subsistence expenses while so serving away from their place of residence.

Meetings of council.

The council shall meet as frequently as the chairman deems necessary, but not less than once each year. Upon request by *one-third* or more *of the* members, *it shall* be the duty of the chairman to call a meeting of the council."

Repealing clause.

Section 9. Section 69-2910.1, R. C. M. 1947, is repealed.

Amending clause.

Section 10. Section 69-2911, R. C. M. 1947, is amended to read as follows:

Functions of hospital, medical and related facilities advisory council.

"69-2911. **Functions of hospital,** *medical and related facilities advisory* **council.** The hospital, *medical and related facilities advisory* council shall consult and advise with the board in matters of policy affecting administration *of the Montana Hospital, Medical and Related Facility Survey and Construction Act and* of this act, and in the development of rules, regulations and standards provided for hereunder.

Amending clause.

Section 11. Section 69-2915, R. C. M. 1947, is amended to read as follows:

Penalties —operation without a license.

"69-2915. **Penalties.** Any person establishing, conducting, managing, or operating any hospital *or related facility* without a license under this law shall be guilty of a misdemeanor, and upon conviction shall be fined not more than one hundred dollars ($100.00) for the first offense and not more than three hundred dollars ($300.00) for each subsequent offense, and each day of a continuing

HeinOnline -- 1965 146 1965

violation after conviction shall be considered a separate offense."

Section 12. Section 69-2916, R. C. M. 1947, is amended to read as follows: Amending clause.

"69-2916. **Injunction.** Notwithstanding the existence or pursuit of any other remedy, the board, may in the manner provided by law upon the advice of the attorney general who shall represent the board in the proceedings maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a hospital *or related facility* without a license under this law." Injunction—to prevent operation without a license.

Section 13. Section 69-2917, R. C. M. 1947, is amended to read as follows: Amending clause.

"69-2917. **Discrimination by hospitals** *or related facilities* **forbidden—interference with relation between physician and patient prohibited.** (a) notwithstanding any other provision of this act, no person, firm, copartnership, association, corporation, public or private, and no religious, denominational or secular order, or organization, trustees or trust conducting or operating either directly or as lessee, or otherwise, a hospital or hospitals *or related facility* not maintained for private or corporate pecuniary profit, or operating or conducting a hospital or hospitals *or related facility* which are institutions of public charity, any of which hospitals *or related facilities* in any case are exempt, or cause themselves to become exempt, under applicable law from any state, county or municipal tax by reason of their nonprofit status or charitable nature or character, shall in any manner or by any device discriminate between the patients of any regularly licensed physician for or upon any ground or reason whatever, including the fact that any such physician is not a member of the medical or surgical, or other staff, clinic, or internal instrumentality of such hospital *or related facility.* All such hospitals *and related facilities* are hereby directed, required and compelled to admit, receive and care for the patients of any regularly licensed physician and surgeon, under the same terms and conditions as may be established and promulgated by the governing authority, management or staff of said hospital *or related facility* Discrimination by hospitals or related facilities forbidden—interference with physician-patient relation prohibited.

HeinOnline -- 1965 147 1965

for the patients of any other regularly licensed physician without discrimination, direct or indirect.

Free and confidential relation between physician and patient maintained.

(b) Notwithstanding any other provision of this act, the free and confidential professional relation between licensed physician and patient shall continue and remain unaffected and unchanged, and be preserved as a privileged relationship; and licensed physicians shall continue to have direction over their patients in hospitals *and related facilities.*

Administrators of act shall have no authority to modify law.

(c) The licensing agency, advisory council, director and all other charged with the administration of this act shall have no authority, by rule, regulation, or administrative direction, or other device, to modify, alter, or abridge any of the provisions of this section, and the faithful observance of the provisions hereof shall be an express condition of all licenses issued or reissued hereunder.

Act does not authorize control of remedial treatment of patients who rely upon treatment by spiritual means.

(d) Nothing in this act or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any home or institution conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination."

Effective immediately.

Section 14. This act is effective on its passage and approval.

Approved February 26, 1965.

CHAPTER 79

An Act Amending Section 25-508, R. C. M. 1947, to Increase the Number of Employees and School Board Members Whose Expenses to Attend Meetings of Educational Associations May Be Paid; Providing for a Repealing Clause; Providing for a Savings Clause; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 25-508, R. C. M. 1947, is amended to read as follows:

HeinOnline -- 1965 148 1965

"25-508. (443) **Traveling expenses of officers attending conventions.**

Traveling expenses of officers attending conventions.

(1) Hereafter no state, county, city or school district officer or employee of the state or of any county or city, or of any school district, shall receive payment from any public funds for traveling expenses or other expenses of any sort or kind for attendance upon any convention, meeting, or other gathering of public officers save and except for attendance upon such convention, meeting or other gatherings as said officer or employee may by virtue of his office find it necessary to attend, and provided further, that the board of trustees of any county or district high school or of any school district may by resolution adopted by a majority of the entire board make their district a member of any state association of school districts or school district trustees, or any other strictly educational association and authorize the payment of dues to such association, and the necessary traveling expenses of *employees, or members* of said board, to attend meetings of such association, or other meetings called for the express purpose of considering educational matters.

Officer to attend if necessary by virtue of his office.

(2) Provided, further, three (3) members of the board of county commissioners may be allowed actual transportation expenses and per diem for attendance upon any general meeting of county commissioners or assessors held within the state not oftener than once a year and the proportionate expenses and charges against each county as a member of such association shall also be paid; provided also that county attorneys and sheriffs are hereby authorized to attend their respective meeting or convention held within the state and are allowed actual traveling expenses not oftener than once a year for attending same.

County commissioners, county attorneys and sheriffs—travel expenses.

(3) Provided, further, that nothing herein shall be construed to prevent any city or town council, commission or other governing body from paying membership fees and dues in any organization of city and town officials whose purpose is improvement of laws relating to city and town government and their better and more economical administration, and the necessary expense of any regular officer or employee of such city or town in attending any convention or meeting of such organization upon the direction of such council, commission, or other governing body by order upon its minutes stating that

Membership fees in organization for improvement of laws.

HeinOnline -- 1965 149 1965

the public interest requires such attendance; such payment of membership fees, dues and/or expenses to be made from such fund of the city or town as the council, commission or other governing body shall direct by such order, upon claims presented, audited and allowed as are other claims against such city or town.

County clerk and recorders—travel expenses.

(4) Provided, further, that all county clerk and recorders of the various counties throughout the state of Montana shall be allowed actual transportation expenses and per diem allowance for attendance upon any general meeting of the Montana Association of County Clerk and Recorders held within the state, not oftener than once a year, and the proportionate expenses and charges against each county as a member of such association shall be paid by such county."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Legislative intent that valid parts are severable.

Section 3. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Effective immediately.

Section 4. This act shall be effective upon its passage and approval.

Approved February 26, 1965.

CHAPTER 80

An Act to Amend Section 5-1028, R. C. M. 1947, as Amended by Chapter 39, Session Laws of Montana, 1963, Prohibiting Branch Banking; Providing for Drive-in and Walk-up Facilities With the Approval of the Superintendent of Banks Within Specified Distances from the Main Banking House; Providing for a Repealing Clause; Providing for a Severability Clause; Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 5-1028, R. C. M. 1947, as amended by Chapter 39, sessions laws of Montana, 1963, is amended to read as follows:

HeinOnline -- 1965 150 1965

"5-1028. (6014.112) **Branch bank prohibited—exceptions.** No bank shall maintain any branch bank, receive deposits or pay checks, except over the counter of and in its own banking house. Provided, that nothing in this section shall prohibit ordinary clearing house transactions between banks.

Branch bank prohibited except one detached drive-in and walk-up facility.

With the prior approval of the superintendent of banks, any bank doing business in this state may establish and maintain not more than one (1) detached drive-in and walk-up facility consisting of one (1) or more teller's windows. The distance of the facility from the main banking house shall not exceed one thousand (1,000) feet measured in a straight line from the closest point of the main banking house to the farthest point of the detached facility. The facility shall not be closer than two hundred (200) feet to a facility operated by any other bank nor closer than three hundred (300) feet to the main banking house of any other bank, the measurement to be made in a straight line from the closest points of the closest structures involved. *The distances herein specified in relation to a facility operated by any other bank and in relation to the main banking house of any other bank may be decreased by mutual written agreement of the banks involved to not closer than one hundred and fifty (150) feet to a facility operated by any other bank nor closer than two hundred (200) feet to the main banking house of any other bank, the measurement to be made in a straight line from the closest points of the closest structures involved.* The service of the facility shall be limited to receiving deposits of every kind, cashing checks or orders to pay, receiving payments payable at the bank and such other transactions as are normally and usually conducted or handled at tellers' windows in the main banking house."

Distance limitations.

Agreement between banks.

Service limitations.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Legislative intent that valid parts are severable.

HeinOnline -- 1965 151 1965

Section 4. This act shall be effective upon its passage and approval.

Approved February 26, 1965.

CHAPTER 81

An Act to Amend Section 92-706, Revised Codes of Montana, 1947, Authorizing Industrial Accident Board to Order Replacement or Repair of Artificial Limb Damaged in Industrial Accident.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 92-706, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Medical and hospital and treatment approved by board to be furnished.

"92-706. (2917) **Medical and hospital services and such other treatment as approved by the board to be furnished.** In addition to the compensation provided by by this act and as an additional benefit separate and apart from compensation, the following shall be furnished:

Time limitation.

During the first thirty-six (36) months after the happening of the injury, the employer or insurer or the board, as the case may be, shall furnish reasonable services by a physician or surgeon, reasonable hospital services and medicines when needed, and such other treatment approved by the board, not exceeding in amount the sum of twenty-five hundred dollars ($2500.00) provided however, that in cases of total disability where apportionment of such sum does not meet all hospitalization expenses, the board may allow an additional amount for additional hospital and medical expenses as in special cases it may deem proper. The employer or insurer or the board shall not be required to furnish such services if the employee refuses to allow them to be furnished or if the employee is under hospital contract as provided in section 92-610.

Monetary limitation.

Total disability —additional amount.

Exception.

Hospital contract —adequate hospital facilities if obtainable.

When such employee is under a hospital contract as above and when hospital and medical facilities or both are inadequate to the needs of an injured employee in a particular case such injured employee may, any time, be

HeinOnline -- 1965 152 1965

placed where adequate hospital facilities are obtainable, and the cost thereof in whole or in part shall be a legal charge against the one so contracting to furnish hospital facilities, and the amount of such charge and the necessity therefor shall be determined by the board.

Injury resulting in loss of bodily member, eye or teeth—prosthetic appliance furnished—replaced or repaired if damaged in an industrial accident.

And be it further provided, that where an injury arising out of and received in the course of employment necessarily results in the loss by amputation of an arm, hand, leg or foot, or the enucleation of an eye, or the loss of any of the natural teeth, the industrial accident board may, in its discretion, order that an artificial member be furnished to supply the loss of any such member or members so lost. *The board may also order the replacement or repair of any prosthetic appliance damaged in an industrial accident.* Such artificial member shall be furnished at the expense of the employer, operating under plan one, or the insurer, operating under plan two, or the industrial accident fund where the employer is operating under plan three. The replacement of an artificial member so furnished shall be required every five (5) years, if necessary, unless the board shall determine a replacement is needed within a shorter period."

Replacement of artificial member.

Approved February 26, 1965.

CHAPTER 82

An Act to Authorize Cities and Towns to Make an All Purpose Annual Mill Levy in Lieu of All Levies Now Authorized by Law; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Purpose of act to authorize cities and towns to make an exclusive annual mill levy in lieu of multiple separate levies.

Section 1. It is the purpose of this act to authorize and empower the cities and towns of the state of Montana, at their option, to make an all purpose exclusive annual mill levy in lieu of the multiple levies now authorized by the statutes of the state of Montana. This act shall not be construed as repealing those statutes providing for multiple separate levies.

Authorization for all purpose and exclusive annual levy.

Section 2. Notwithstanding the provisions of the statutes of Montana to the contrary, the cities and towns of the state of Monana may make an all purpose and exclusive annual levy which does not exceed the average num-

HeinOnline -- 1965 153 1965

ber of mills on the dollar levied for all purposes in the preceding three (3) fiscal years upon the assessed value of all the taxable property in such cities and towns, for all municiple purposes in lieu of the multiple levies now authorized by statute.

Allocaton of all-purpose levy to several departments.

Section 3. In the event the all purpose levy method, provided for in Section 2 of this act, is followed in municipal financing, any municipality following it shall allocate the levy on a mill basis to the several departments of the municipality in its annual budget and appropriation ordinance, or in other legal manner, as the governing body of such municipality shall deem best.

Municipality bound by election for ensuing fiscal year.

Section 4. Any municipality electing to follow the all purpose levy method provided for in Section 2 of this act shall be bound by that election during the ensuing fiscal year but may abandon such method in succeeding fiscal years.

Certification as single levy.

Section 5. In the event that it is necessary to certify such a municipal levy to county officers for collection, the same shall be certified as a single levy for general fund purposes.

Effective immediately.

Section 6. This act shall be in force and effect from and after its passage and approval.

Approved February 26, 1965.

CHAPTER 83

An Act to Amend Section 11-1024, Revised Codes of Montana, 1947, to Increase Amount of Governing Groups Participation in Group Health Plans From Not to Exceed Five Dollars ($5.00) Per Month to Not to Exceed Seven Dollars and Fifty Cents ($7.50) Per Month.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-1024, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Group insurance for county, city, and town officers and employees —authority —approval of employees —limit on contribution.

"11-1024. **Group insurance for county, city, and town officers and employees — authority — approval of employees—limit on contribution of governmental unit.** All counties, cities, and towns are hereby authorized upon approval by a two-thirds (2/3) vote of the officers and

HeinOnline -- 1965 154 1965

employees to enter into group hospitalization, medical, health, accident and/or group life insurance contracts or plans for the benefit of their officers, employees, and their dependents, and the respective governing bodies are authorized to pay as part of the officers and employees salary one-half of the total premium therefor; provided, however, that such payment shall not exceed *seven dollars and fifty cents ($7,50)* per month for each officer and employee."

Approved February 26, 1965.

CHAPTER 84

An Act to Amend Sections 87-106 and 87-148, R. C. M., 1947, Which Sections Are a Part of the Unemployment Compensation Law; by Limiting Benefit Disqualification of Retired Individuals to Those Entitled to Receive Retirement Compensation in Excess of One Hundred Dollars Per Month; by Excluding Securities Salesmen Paid Solely by Commission from the Definition of Covered Employment.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 87-106, R. C. M., 1947, is amended to read as follows: Amending clause.

"87-106. **Disqualification for benefits.** An individual shall be disqualified for benefits— Disqualification for benefits.

(a) If he has left work without good cause attributable to the employment for a period of not less than two (2) or more than five (5) weeks (in addition to and immediately following the waiting period), as determined by the commission according to the circumstances in each case. No benefit payments or amount paid any individual after having left work without good cause attributable to the employment shall ever be charged under section 87-109 against any employer (whose employment the individual left) on account of that particular employment. Left work without good cause.

(b) If he has been discharged: Discharged.

(1) For misconduct connected with his work, or affecting his employment, for a period of not less than two Misconduct.

HeinOnline -- 1965 155 1965

(2) nor more than nine (9) weeks (in addition to and immediately following the waiting period), as determined by the commission in each case according to the seriousness of the misconduct:

Gross misconduct.

(2) For gross misconduct connected with his work or committed on the employer's premises, as determined by the commission, for a period of twelve (12) months.

No benefit payments or amounts paid any individual after having been discharged for misconduct shall ever be charged under section 87-109 against any employer (from whose employment the individual was discharged for misconduct as above provided) on account of that particular employment.

Failure to apply for or accept suitable work.

(c) If he failed, without good cause, either to apply for available and suitable work when so directed by the employment office or the commission or to accept suitable work offered to him which he is physically able and mentally qualified to perform, or to return to his customary self-employment (if any) when so directed by the commission. Such disqualification shall continue for the week in which such failure occurred and for not less than two (2) nor more than five (5) weeks in addition to the waiting week which immediately follow such week as determined by the commission according to the circumstances in each case.

Suitable work—determination.

(1) In determining whether or not any work is suitable for an individual, the commission shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and previous earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

Limitations.

(2) Notwithstanding any other provisions of this act, no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(A) If position offered is vacant due directly to a strike, lockout, or other labor dispute;

(B) If the wages, hours, or other conditions of the

HeinOnline -- 1965 156 1965

work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(C) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

Work stoppage —labor dispute.

(D) For any week with respect to which the commission finds that his total unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the commission that—

Nonparticipation —financing.

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

Not a member of participating class.

(2) He does not belong to a grade or class of workers of which immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute;

Separate departments.

Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises; provided, further, that if the commission, upon investigation, shall find that such labor dispute is caused by the failure or refusal of any employer to conform to the provisions of any law of the state wherein the labor dispute occurs or of the United States pertaining to collective bargaining, hours, wages or other conditions of work, such labor dispute shall not render the workers ineligible for benefits.

Weekly payment —form.

(e) For any week with respect to which he is receiving or has received payment in the form of—

(1) Wages in lieu of notice or separation or termination allowance;

HeinOnline -- 1965 157 1965

(2) Compensation for disability under the Workmen's Compensation Law or the Occupational Disease Law of this or any other state or under a similar law of the United States;

(3) Benefits under the Railroad Unemployment Insurance Act or any state unemployment compensation act or similar laws of any state or of the United States. This disqualification does not apply to any week with respect to which an individual is receiving or has received benefits under an unemployment compensation law of another state or of the United States, if such benefits are paid pursuant to section 87-129.

Repayment of benefits.

Receipt of any wages, compensation or benefits as set forth in subsections (1), (2), or (3) above, after payment of unemployment benefits, and with respect to the same week for which unemployment benefits were received, will thereupon require such individual to repay such unemployment benefits and the commission may collect such unemployment benefits in the same manner as provided for collection of benefits under section 87-145 (d).

School year—student regularly attending.

(f) During the school year (within the autumn, winter and spring seasons of the year) or the vacation periods within such school year or during any prescribed school term if claimant is a student regularly attending an established educational institution.

Marriage.

(g) For any week wherein claimant leaves her most recent work to be married. Such disqualification shall cancel all existing wage credits and shall continue until such time as subsequently to such week additional wage credits shall have been earned so as to be eligible for benefits under section 87-105.

Retired and entitled to receive retirement compensation.

(h) Where retired and entitled to receive retirement compensation *in excess of one hundred dollars ($100.00) per calendar month* paid in whole or in part from funds furnished by an employing unit, such disqualification to be applied as follows: All wages earned by such individual in the employment from which he has been retired shall not be considered or included in determining his wage credits or weekly benefit amount under section 87-103 or 87-105. *No* benefit payments or amounts paid any *retired* individual shall ever be changed under section 87-109 against any employing unit from whose em-

Wage credit exclusion.

Benefit payments not charged.

HeinOnline -- 1965 158 1965

ployment the individual is retired *and entitled to receive retirement compensation,* on account of that particular employment, unless and until the commission shall determine (upon hearing if requested by employer, and after at least ten (10) days' written notice of such hearing to said employer) that the individual was not retired by the employer acting in good faith. This disqualification does not extend to the receipt of benefits under the Federal Social Security Act, as amended.

Hearing. Written notice.

Social security act excluded.

(i) For any week wherein claimant leaves her most recent employment during pregnancy, and due to such pregnancy, and such disqualifications shall continue through the period of pregnancy unless claimant presents evidence of her physical ability to work at such employment. At any time after the seventh month of pregnancy a claimant, to establish eligibility, must present evidence of physical ability to work at such employment. Further, at any time during the first two (2) months following childbirth, a claimant, to establish eligibility, must present evidence of her physical ability to work at such employment. In any of the cases set forth hereinbefore, such evidence of eligibility must be in the form of a certificate of a duly licensed physician that such claimant is physically able to work at her most recent employment, and such evidence must be presented as often as requested by the commission. No benefit payments or amounts paid any individual after having left work because of pregnancy or childbirth shall ever be charged under section 87-109 against the employer (whose employment the individual left because of pregnancy or because of childbirth) on account of that particular employment.

Pregnancy.

Evidence of physical ability.

Physician's certificate.

Benefit payments not charged.

(j) For any week wherein claimant leaves her most recent work to change her place of residence in order to remain with her husband or relative. Such disqualification shall cancel all existing wage credits and shall continue until such time as subsequently to such week additional wage credits shall have been earned so as to be eligible for benefits under section 87-105."

Change of residence.

Section 2. Section 87-148, R. C. M., 1947, is amended to read as follows:

Amending clause.

"87-148. **Definitions.** As used in this act, unless the context clearly requires otherwise:

Definitions.

HeinOnline -- 1965 159 1965

'Annual payroll.' (a) (1) 'Annual payroll' means the total amount of wages paid by an employer (regardless of the time of payment) for employment during a calendar year.

'Average annual payroll.' (2) 'Average annual payroll' means the average of the annual payrolls of an employer for the last three (3) or five (5) preceding calendar years, whichever average is higher.

'Benefits.' (b) 'Benefits' means the money payments payable to an individual, as provided in this act, with respect to his unemployment.

'Base period.' (c) 'Base period' means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year.

'Benefit year.' (d) 'Benefit year' with respect to any individual means, the fifty-two (52) consecutive-week period beginning with the first day of the calendar week in which such individual files a valid claim, and thereafter the fifty-two (52) consecutive-week period beginning with the first day of the calendar week in which such individual files his next valid claim after the termination of his last preceding benefit year, provided that if such filing shall result in an overlapping of benefit years the new benefit year shall begin upon the first Sunday following the expiration of his last preceding benefit year.

'Calendar quarter.' (e) 'Calendar quarter' means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31.

'Commission.' (f) 'Commission' means the unemployment compensation commission established by this act.

'Contributions.' (g) 'Contributions' means the money payments to the state unemployment compensation fund required by this act.

'Employing unit.' (h) 'Employing unit' means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one (1) or more individuals performing services for it within this state. All individuals performing services within

Separate establishments.

HeinOnline -- 1965 160 1965

this state for any employing unit which maintains two (2) or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this act. Each individual employed to perform or assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for the purposes of this act, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

Agent or employ —assist.

(i) 'Employer' means: (1) Any employing unit which for some portion of a day in each of twenty (20) different weeks, whether or not such weeks are or were consecutive within either the current or the preceding calendar year, has or had in employment, one or more individuals (irrespective of whether the same individuals are or were employed in each such day); or whose total annual payroll within either the current or the preceding calendar year, exceeds the sum of five hundred dollars ($500.00);

'Employer.'

(2) Any individual or employing unit which acquired the organization, trade or business, or substantially all of the assets thereof, of another which at the time of such acquisition was an employer subject to this act;

Acquisition of another's assets.

(3) Any individual or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another employing unit (not an employer subject to this act), and which, if subsequent to such acquisition it were treated as a single unit with such other employing unit would be an employer under paragraph (1) of this subsection;

Acquisition —subsequent qualification.

(4) Any employing unit which, having become an employer under paragraph (1), (2) or (3) has not, under section 87-110, ceased to be an employer subject to this act; or

Employing unit under (1), (2) or (3), supra.

(5) For the effective period of its election pursuant to section 87-110 (c) any other employing unit which has elected to become fully subject to this act.

Unit electing.

(j) (1) 'Employment' subject to other provisions of this subsection means service, including service in

'Employment.'

HeinOnline -- 1965 161 1965

interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

Term to include.

(2) The term 'employment' shall include an individual's entire service performed within or both within and without this state if:

(A) The service is localized in this state; or

(B) The service is not localized in any state but some of the service is performed in this state and (I) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or (II) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

Service performed outside state by a resident—election by employer.

(3) Service not covered under paragraph (2) of this subsection, and performed entirely without this state with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this act if the individual performing such services is a resident of this state and the commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.

Localized service —when.

(4) Service shall be deemed to be localized within a state if—

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

Service for wages is subject employment —exceptions.

(5) Services performed by an individual for wages shall be deemed to be employment subject to this act unless and until it is shown to the satisfaction of the commission that:

(A) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract and in fact; and

HeinOnline -- 1965 162 1965

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business.

'Employment' —not to include.

(6) The term 'employment' shall not include:

'Agricultural labor.'

(A) Agricultural labor; The term 'agricultural labor' includes all services performed—

(1) On a farm, in the employ of any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of maple syrup or maple sugar or any commodity commonly known as agricultural commodities, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes.

(4) In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with

HeinOnline -- 1965 163 1965

respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

'Farm.'

(5) As used in this section, the term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.

Domestic service.

(B) Domestic service in a private home, local college club or local chapter of a college fraternity or sorority;

Crew of vessel.

(C) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

Employment of relations.

(D) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) in the employ of his father or mother;

Religious, charitable, scientific, literary or educational organization.

(E) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or wildlife and anglers clubs or associations, and services performed in the employ of churches, charities, benevolent, fraternal, nonprofit societies and like associations as defined in section 15-1401, where said services are on a part-time basis and do not constitute the major portion of income to the individual performing such services, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

Employ of state or political subdivisions.

(F) Service performed in the employ of this state, or of any political subdivision thereof, or of any instrumentality of this state or its political subdivisions;

U. S., other state or political subdivisions thereof.

(G) Service performed in the employ of any other state or its political subdivisions, or of the United States government, or of an instrumentality of any other state or states or their political subdivisions or of the United States, except that national banks organized under the national

HeinOnline -- 1965 164 1965

banking law shall not be entitled to exemption under this section and shall be subject to this act the same as state banks; Exception.

(H) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress; provided, that the commission is hereby authorized and directed to enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner in section 87-121 for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this act, acquired rights to unemployment compensation under such act of Congress, or who have, after acquiring potential rights of unemployment compensation under such act of Congress, acquired rights to benefits under this act; Unemployment compensation service under act of Congress.

(I) Services performed in the delivery and distribution of newspapers or shopping news from house to house and business establishments by an individual under the age of eighteen (18) years, but not including the delivery or distribution to any point or points for subsequent delivery or distribution. Delivery and distribution of newspapers.

(J) Services performed by real estate, *securities* and insurance salesmen paid solely by commissions and without guarantee of minimum earnings. Real estate, securities, and insurance salesmen paid solely by commission.

(k) 'Employment office' means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices, or such other free public employment offices operated and maintained by the United States government or its instrumentalities, as the commission may approve. 'Employment office.'

(l) 'Fund' means the unemployment compensation fund established by this act, to which all contributions required and from which all benefits provided under this act shall be paid. 'Fund.'

(m) 'State,' includes, in addition to the states of the United States of America, Hawaii, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and the Dominion of Canada." 'State.'

HeinOnline -- 1965 165 1965

Effective April 1, 1965.

Section 3. This act shall be in full force and effect from and after April 1, 1965.

Approved February 26, 1965.

CHAPTER 85

An Act to Amend Section 84-202 of the Revised Codes of Montana of 1947, Relating to Exemptions From Taxation, by Defining the Term "Institutions of Purely Public Charity" to Include Organizations Owning and Operating Facilities for the Care of the Retired or Aged or Chronically Ill Which Are Not Operated for Gain or Profit; Repealing all Acts or Parts of Acts in Conflict Herewith; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-202 of the Revised Codes of Montana of 1947, is amended to read as follows:

Exemptions from taxation.

"84-202. **(1998) Exemptions from Taxation.** The property of the United States, the state, counties, cities, towns, school districts, municipal corporations, public libraries, such other property as is used exclusively for agricultural and horticultural societies, for educational purposes, places of actual religious worship, hospitals and places of burial not used or held for private or corporate profit, and institutions of purely public charity, evidence of debt secured by mortgages of record upon real or personal property in the state of Montana, and public art galleries and public observatories not used or held for private or corporate profit, are exempt from taxation, but no more land than is necessary for such purpose is exempt; *provided, the term 'institutions of purely public charity' as used in this act shall include organizations owning and operating facilities for the care of the retired or aged or chronically ill which are not operated for gain or profit;* provided, that the terms public art galleries and public observatories used in this act shall mean only such art galleries and observatories whether of public or private ownership, as are open to the public, without charge or fee at all reasonable hours, and are used for the purpose of education only, and also when a clubhouse or building erected by or belonging to any

Limitation.

'Institutions of purely public charity.'

HeinOnline -- 1965 166 1965

society or organization of honorably discharged United States soldiers, sailors or marines who served in army or navy of United States, is used exclusively for educational, fraternal, benevolent or purely public charitable purposes, rather than for gain or profit, together with the library and furniture necessarily used in any such building, and all property, real or personal, in the possession of legal guardians of incompetent veterans of the World War or minor dependents of such veterans, where such property is funds or derived from funds received from the United States as pension, compensation, insurance, adjusted compensation, or gratuity, shall be exempt from all taxation as property of the United States while held by the guardian, but not after title passes to the veteran or minor in his or her own right on account of removal of legal disability."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 27, 1965.

CHAPTER 86

An Act Amending Section 84-406, R. C. M. 1947, to Provide Livestock Being Fed in Feeding Pens or Enclosures May be Assessed on an Average Inventory Basis Rather Than the Fixed Assessment Date of the First Monday in March.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-406, R. C. M. 1947, is amended to read as follows:

Assessor must assess all property subject to taxation between first Monday of March and second Monday of July.

"84-406. (1) The assessor must, between the first Monday of March and the second Monday of July in each year, ascertain the names of all taxable inhabitants, and assess all property in his county subject to taxation, except such as is required to be assessed by the state board of equalization, and must assess such property to the persons by whom it was owned or claimed, or in whose possession or control it was at twelve o'clock M. of the

HeinOnline -- 1965 167 1965

first Monday of March next preceding, except that such procedure shall not apply to

Motor vehicles—mistake does not render assessment invalid.

(a) Motor vehicles which are required by subdivision (2) hereof to be assessed as of the first day of January; but no mistake in the name of the owner or supposed owner of real property renders the assessment thereof invalid.

Livestock fed in pens assessed on average inventory basis.

(b) Livestock being fed in feeding pens or enclosures which may by subdivision (3) of this section be assessed on an average inventory basis.

Credits.

Credits must be assessed as provided in section 84-101, subdivision 6.

Motor vehicles assessed as of January 1.

(2) The assessor must ascertain and assess all motor vehicles in his county subject to taxation as of January 1st in each year, and the same shall be assessed to the persons by whom owned or claimed, or in whose possession or control such vehicle was at twelve o'clock M. of the first day of January in each year.

Registration of motor vehicles responsibility of owner.

Nothing herein contained shall relieve the applicant for registration or reregistration of any motor vehicle so assessed or subject to assessment of the duty of paying taxes thereon as a condition precedent to registration or reregistration in the event said taxes have not been paid by any prior applicant or owner in all cases where required to be paid.

Assessed value of livestock fed in pens—method of computation.

(3) The assessed value of livestock being fed in feeding pens or enclosures on the first Monday in March may be computed by adding the value of livestock more than six months of age being fed on the last day of each month since the last assessment date and dividing the sum by twelve."

Approved February 26, 1965.

CHAPTER 87

An Act Amending Sections 46-2102 and 46-2104, R. C. M. 1947, Providing That in Order to Defray the Expense of the Protection of Sheep Against Depredations Peculiar to Such Animals the Board of County Commissioners of any County Shall Have the Power to Require all Owners or Persons in Possession of any Sheep,

HeinOnline -- 1965 168 1965

Coming One Year or Over, in the County on the Regular Assessment Date of Each Year to Pay a License Fee of Not Exceeding Fifteen Cents (15¢) Per Head of Sheep so Owned or Possessed by Him in the County.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 46-2102, R. C. M. 1947, is amended to read as follows: Amending clause.

"46-2102. **County commissioners may require per capita license fee on sheep.** To defray the expense of such protection the board of county commissioners of any county shall have the power to require all owners or persons in possession of any sheep, coming one year old or over, in the county on the regular assessment date of each year to pay a license fee of not exceeding *fifteen cents (15¢)* per head of sheep so owned or possessed by him in the county; provided that all owners or persons in possession of any sheep, coming one year old or over, coming into the county after the regular assessment date and subject to taxation under the provisions of section 84-6008 shall also be subject to payment of the license fee herein prescribed. Upon the order of the board of county commissioners such license fees may be imposed by the entry thereof in the name of the licensee upon the property tax rolls of the county by the county assessor. Said license fees shall be payable to and collected by the county treasurer, and when so levied, shall be a lien upon the property, both real and personal of the licensee. In case the person against whom said license fee is levied owns no real estate against which said license fee is or may become a lien, then said license fee shall be payable immediately upon its levy and the treasurer shall collect the same in the manner provided by law for the collection of personal property taxes which are not a lien upon real estate. When collected, said fees shall be placed by the treasurer in the predatory animal control fund and the moneys in said fund shall be expended on order of the board of county commissioners of the county for predatory animal control only. The word 'owners' or 'persons' shall include natural persons, copartnerships, corporations, trusts and estates."

County commissioners may require per capita license fee on sheep to defray expense of protection.

15 cents per head.

Order of board—entry on property tax rolls.

Collection.

Disposition of fees.

'Owners' or 'persons.'

Section 2. Section 46-2104, R. C. M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1965 169 1965

Duty of county commissioners—petition of sheep owners.

"46-2104. **Duty of county commissioners—petition of sheep owners.** In conducting a predatory animal control program, the board of county commissioners shall give preference to recommendations for such program and its incidents as made by organized associations of sheep growers in the county. Upon petition of the resident owners of at least fifty-one per cent (51%) of the sheep in the county, as shown by the assessment rolls of the last preceding assessment, which petition shall be filed with the board of county commissioners on or before the first Monday in December in any year, such board shall establish the predatory animal control program, and cause said licenses to be secured and issued and the fees collected for the following year in such amount, not exceeding the limits of *fifteen cents (15¢)* per head of sheep as shown by said assessment rolls, as will defray the cost of administering the program so established. The license fee determined and set by the board, within said limits, shall remain in full force and effect from year to year without change, unless there is filed with the board a petition subscribed by the resident owners of at least fifty-one per cent (51%) of the sheep in the county, as shown by the assessment rolls of the last assessment preceding the filing of the petition, for termination of the program and repeal of the license fee, in which event the program shall by order of the board of county commissioners be disestablished and the license fee shall not be further levied. If the resident owners of at least fifty-one per cent (51%) of the sheep in the county either (a) petition for an increase in the license fee, subject always to the maximum limitation of *fifteen cents (15¢)* per head of sheep, or (b) petition for a decrease in the license fee then in force, the board of county commissioners shall upon receipt of any such petition fix a new license fee to continue from year to year and the program shall thereupon continue within the limits of the aggregate amount of the license fee as collected from year to year."

Owners of 51% of the sheep.

Predatory animal control program.

License fee—termination of program.

Order of board.

New license fee.

Approved February 26, 1965.

CHAPTER 88

An Act to Amend Section 53-707, R. C. M. 1947, Pertaining to Proportional Registration of Fleet Vehicles by

HeinOnline -- 1965 170 1965

Providing for Payment of Certain License Fees and Taxes and Amending Section 53-712, R. C. M. 1947, Pertaining to the Fee Formula by Adding Property Taxes Thereto and Amending Section 53-713, R. C. M. 1947, Pertaining to Registration of Proportionally Registered Vehicles Adding Payment of Property Taxes as a Requirement Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-707, R. C. M. 1947, is amended to read as follows: Amending clause.

"53-707. **Proportional registration of fleet vehicles.** If any jurisdiction permits or requires the licensing of fleets of vehicles in interstate or combined interstate and intrastate commerce and payment of registration fees, license *fees, taxes* or other fixed fees thereon on an apportionment basis commensurate with and determined by the miles traveled on and the use made of said jurisdiction's highways, as compared with the miles traveled on and the use made of other jurisdiction's highways or any other equitable basis of apportionment, and exempts vehicles registered in other jurisdiction under such apportionment basis from the requirements of full payment of its own registration, license *fees, taxes* or other fixed fees, then the Montana motor vehicle reciprocity board may, by agreement, adopt such exemption with respect to vehicles of such fleets, whether owned by residents or nonresidents of this state and regardless of where based. Such agreements, under such terms, conditions or restrictions as the Montana motor vehicle reciprocity board deems proper, may provide that owners of vehicles operated in interstate or combined interstate and intrastate commerce in this state shall be permitted to pay registration, license *fees, taxes* or other fixed fees on an apportionment basis, commensurate with and determined by the miles traveled on and the use made of the highways of this state as compared with the use made of the highways of other jurisdictions or any other equitable basis of apportionment. No such agreement shall authorize, or be construed as authorizing, any vehicle so registered to be operated in intrastate commerce in this state unless the owner thereof has been granted intrastate authority or rights by the Montana railroad and public service commission, if such grant is otherwise required by law.

Proportional registration of fleet vehicles.

Montana motor vehicle reciprocity board—exemption agreement.

Fees on an apportionment basis.

Intrastate authority required by railroad and public service commission.

HeinOnline -- 1965 171 1965

Montana motor vehicle reciprocity board to promulgate rules and regulations.

The Montana motor vehicle reciprocity board may adopt and promulgate such rules and regulations as it shall deem necessary to effecutate and administer the provisions of this subsection, and the registration of fleet vehicles under this act shall be subject to the rights, terms and conditions granted by or contained in any applicable agreement, arrangement or declaration made by the Montana motor vehicle reciprocity board."

Amending clause.

Section 2. Section 53-712, R. C. M. 1947, is amended to read as follows:

Proportional registration of fleet vehicles, application, fee-formula and payment.

"53-712. **Proportional registration of fleet vehicles, application, fee-formula and payment.** (1) Any owner engaged in operating one or more fleets may, in lieu of registration of vehicles under other sections of Title 53, register and license each fleet for operation in this state by filing an application with the Montana highway commission which shall contain the following information, and such other information pertinent to vehicle registration as the Montana highway commission may require:

Application —to contain.

(a) **Total fleet miles.** This shall be the total number of miles operated in all jurisdictions during the preceding year by the vehicles in such fleet during said year.

(b) **In-state miles.** This shall be the total number of miles operated in this state during the preceding year by the vehicles in such fleet during said year.

(c) A description and identification of each vehicle of such fleet which is to be operated in this state during the registration year for which proportional fleet registration is requested.

Fee payment —computation.

(2) The application for each fleet shall be accompanied by a fee payment computed as follows:

(a) Divide in-state miles by total fleet miles.

(b) Determine the total amount necessary to register each and every vehicle in the fleet for which registration is requested, based on the regular annual registration fees prescribed by section 53-122, R. C. M., 1947, as amended, and section 53-615, R. C. M., 1947, as amended *and such property taxes if any be due thereon.*

HeinOnline -- 1965 172 1965

(c) Multiply the sum obtained under subsection (2) (b) hereof by the fraction obtained under subsection (2) (a) hereof."

Section 3. Section 53-713, R. C. M. 1947, is amended to read as follows: Amending clause.

"53-713. **Registration and identification of proportionally registered vehicles, effect of such registration.** Registration and identification of proportionally registered vehicles —effect.

(1) The Montana highway commission shall register the vehicles so described and identified and shall issue a license plate or plates, or a distinctive sticker, or other suitable identification device, for each vehicle described in the application upon payment of the appropriate fees, *and property taxes as provided by law,* for such application and for the stickers or devices issued. A fee of two dollars ($2.00) shall be paid for each license plate, sticker or device issued for each proportionally registered vehicle. A registration card shall be issued for each proportionally registered vehicle. Such registration card shall, in addition to other information required by Title 53, bear upon its face the number of the license, sticker or other device issued for such proportionally registered vehicle and shall be carried in such vehicle at all times. Fee. Registration card.

(2) Fleet vehicles so registered and identified shall be deemed fully licensed and registered in this state for any type of movement or operation, except that, in those instances in which a grant of authority is required for intrastate movement or operation, no such vehicle shall be operated in intrastate commerce in this state unless the owner thereof has been granted intrastate authority or rights by the Montana railroad and public service commission and unless said vehicle is being operated in conformity with such authority or rights." Fully licensed and registered. Exception.

Section 4. This act shall take effect and be in full force from and after its passage and approval. Effective immediately.

Approved February 26, 1965.

CHAPTER 89

An Act for the Assessment and Collection of Personal Property Taxes on Proportionally Registered Interstate

HeinOnline -- 1965 173 1965

Motor Vehicle Fleets; Providing a Formula for Computing a Statewide Average County Mill Levy; and Providing the Method for the Distribution of This Tax to the Counties.

Be it enacted by the Legislative Assembly of the State of Montana:

Assessment for personal property taxes of proportionally registered interstate motor vehicle fleets.

Section 1. The State Board of Equalization shall assess, for the purpose of personal property taxes, interstate motor vehicle fleets proportionally registered under the provision of Chapter 206, Laws of 1963, and said assessment shall be apportioned on the ratio of total miles traveled to in-state miles traveled formula as prescribed by Section 12, Chapter 206, Laws of 1963. Interstate motor vehicle fleets are hereby declared assessable for taxation purposes upon application for proportional registration and shall be assessed to the persons who own or claim, or in whose possession or control the fleet is at the time of the application. Any fleet contained in an original application which has a situs for purpose of property taxation in Montana by the terms of this act or any other provision of the laws of Montana between January 1st and April 1st shall be taxed for a full year. Any fleet contained in an original application which acquires a situs for the purpose of property taxation in Montana under the provisions of this act or any other law of the State of Montana after April 1st shall have taxes apportioned as provided in Section 84-6011, R. C. M. 1947, as amended. Any fleet, contained in a renewal application, shall be assessed and taxed for a full year. Vehicles contained in a fleet for which current taxes have been assessed and paid shall not be assessed under this section upon presentation to the Board of Equalization of proof of payment of tax for the current registration year. The payment of personal property taxes are a condition precedent to proportional registration or reregistration of an interstate motor vehicle fleet.

Assessable —when.

Fleet—situs in Montana.

Fleet—situs in Montana after April 1st.

Renewal application.

Assessment method.

Section 2. The State Board of Equalization shall assess any interstate motor vehicle fleet making application for proportional registration as follows:

(a) The purchase price depreciated by a schedule as prescribed by the Board shall determine the depreciated value.

HeinOnline -- 1965 174 1965

(b) The depreciated value multiplied by the per cent of miles traveled in Montana as prescribed by Section 12, Chapter 206, Laws of 1963, shall be the assessed value.

(c) The sum of the assessed value of all vehicles included in the fleet multiplied by twenty (20) per cent shall be the taxable value for the entire fleet.

(d) To determine the amount of tax due, the taxable value of the entire fleet shall be multiplied by the statewide average county mill levy plus state levies as hereinafter provided.

Aggregate tax—determination.

Section 3. The State Board of Equalization shall determine the aggregate tax in the entire state for: (1) state, (2) county, (3) local purposes, levied on the general property of the state in the previous year excluding special levies on property for local improvements and special state levies on livestock for bounties, inspection and protection purposes.

Computation of average levy.

From the total taxable valuation of the general property of the state including net proceeds and the aggregate tax as determined, the State Board of Equalization shall compute the average levy by dividing the aggregate tax by the total state taxable valuation. The rate so determined shall constitute the rate of taxation on the taxable value of all interstate trucks.

Rate.

Original cost to be included.

The original cost of each vehicle shall be included on the application for proportional registration under the provision of Chapter 206, Laws of 1963. The Board shall determine the original cost when the owner does not have this information on new or used vehicles, or in the case of rebuilt vehicles.

Previously registered vehicles—situs.

Section 4. For the purposes of this section, all vehicles previously registered or which registration has been applied for, under the provision of Chapter 206, Laws of 1963, are hereby declared to have a situs in the state for the purposes of taxation.

Collection of taxes.

The Board or its designated agent shall collect the personal property taxes prescribed herein.

Disposition of taxes.

Section 5. The personal property taxes described herein and collected shall be deposited with the state treasurer for distribution to the general fund of each

HeinOnline -- 1965 175 1965

county according to the ratio of the taxable valuation of each county to the total state taxable valuation.

Approved February 26, 1965.

CHAPTER 90

An Act to Provide for Maintenance of Frontage Roads and Amending Section 32-2002 to Define "Frontage Road".

Be it enacted by the Legislative Assembly of the State of Montana:

Frontage roads shall be maintained by state highway commission.

Section 1. All frontage roads shall be maintained by the State Highway Commission of the State of Montana.

Amending clause.

Section 2. Section 32-2002 is amended to read as follows:

Definitions.

"32-2002. **Definitions.** When used in this act:

'Interstate highway.'

(a) 'Interstate highway' means any highway now included or which shall hereafter be included as a part of the National System of Interstate Highways.

'Controlled access highway.'

(b) 'Controlled access highway' means all portions of any interstate highway, throughway or public road or street within a throughway intersection area which the state highway commission shall determine and designate for through traffic, over, from or to which owners or occupants of abutting land or other persons have no easement of access or only a limited easement of access, light, air or view, by reason of the fact that the property abuts upon such road, street or highway, or for any other reason, and shall further include those portions of spurs to the interstate highway system which the state highway commission shall determine and designate as unsafe or impeded by unrestricted access of traffic from intersecting streets or alleys or public or private roads or ways of passage.

'Controlled access facility.'

(c) 'Controlled access facility' means and includes all streets, alleys, public roads, private roads and ways of passage intersecting any controlled access highway and all real property contiguous to the right of way of any controlled access highway.

HeinOnline -- 1965 176 1965

'Existing highway.'

(d) 'Existing highway' means and includes all highways, roads, and streets heretofore established, constructed and in use. It shall not include new highways, roads or streets, or relocated highways, roads or streets, or portions of existing highways, roads or streets which are relocated.

'Arterial highway.'

(e) 'Arterial highway' means any state highway designated by agreement between the state highway commission and the secretary of commerce as a part of the federal-aid primary system and any highway so designated as a part of the federal-aid secondary system which has been constructed and is being used primarily for through traffic on a continuous route.

'Throughway.'

(f) 'Throughway' means any portion of an arterial highway constructed and used for carrying traffic partially or entirely around a town or city or a portion thereof.

'Throughway intersection area.'

(g) 'Throughway intersection area' means an area within a three hundred foot (300') radius from the point of intersection of the center lines of a throughway and any public road, street or highway.

'Frontage road.'

(h) 'Frontage road' for the purpose of this act, shall mean a local road as an integral part of the Interstate System necessary and required for control of access and service to abutting property affected by said highway and designated as such by the State Highway Commission of the State of Montana."

Approved February 26, 1965.

CHAPTER 91

An Act Relating to the Formation of a Cattle Protective District Within any County in the State of Montana and Providing for its Formation and for its Powers and Duties, Including Organization, Tax Levy, and Discontinuance.

Be it enacted by the Legislative Assembly of the State of Montana:

Formation of cattle protective district—petition of cattle owners—declaration by county commissioners.

Section 1. **Formation of county district authorized—petition of cattle owners—declaration by county commissioners.** A cattle protective district embracing part of one county in the state of Montana may be formed upon the filing of a petition by cattle growers within said dis-

HeinOnline -- 1965 177 1965

trict with the board of county commissioners in said county. Such petition must be signed by at least fifty-one per cent (51%) of the cattle owners owning fifty-five per cent (55%) of the cattle for the protection of which the district is to be formed residing within the area designated. Upon receipt of such petition, the board of county commissioners must within thirty (30) days declare the designated portion of its county a cattle protective district and the district shall be formed immediately thereafter.

Selection of committee members—number.

Section 2. **Selection of cattle protective committee members.** Each cattle protective district shall be entitled to three (3) members, who shall be chosen in the same manner as members of a county cattle protective committee under Section 46-2701, R. C. M., 1947.

Powers and duties of committees.

Section 3. **Powers and duties of protective committees.** Such district cattle protective committees shall be organized and have the same powers and duties as the county cattle protective committees organized under the provisions of Chapter 27, Title 46, R. C. M., 1947.

Tax levy—deposit of proceeds.

Maximum of 25 cents per head.

Collection.

Section 4. **Tax levy—deposit of proceeds.** Said district cattle protective committee may recommend to the board of county commissioners the levy of a tax in an amount not to exceed twenty-five cents (25¢) per head on all assessable cattle in the district on the first Monday of March and the board of county commissioners shall thereupon be empowered to levy such tax, to be collected as other taxes on personal property, and when collected to be deposited in the county treasury in a special fund to be known as the stockmen's special deputy fund, together with any other funds made available from county, state, federal or private sources for the purposes of this act.

Discontinuance of district—levy saved.

Section 5. **Discontinuance of district—levy saved.** Upon receipt of a petition or of petitions signed in the same number and in the same manner as the petition to form the district, as herein provided, the board of county commissioners may discontinue the cattle protective district, provided, however, that such action in discontinuing said district shall not affect any levy made prior to the receipt of such petition or petitions, and the pro-

HeinOnline -- 1965 178 1965

ceeds of any levy made shall be used for the purposes as in this act set out.

Approved February 27, 1965.

CHAPTER 92

An Act Amending Sections 92-1311 and 92-1313, R. C. M., 1947, Relating to the Occupational Disease Act of Montana, Payment of Compensation, Exceptions and Limitations, and Notice of Disability or Death; to Except Therefrom Disability or Death Due to X-Ray and Ionizing Radiation.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 92-1311, R. C. M., 1947, is amended to read as follows: Amending clause.

"92-1311. **Payment of compensation—exceptions and limitation.** A. Compensation shall be paid to every employee who becomes disabled by reason of occupational disease arising out of his employment, subject to the following conditions; and when claims are presented and notices given in accordance with the limitations of sections 92-1312 and 92-1313. Payment of compensation —exceptions and limitations— occupational disease.

1. No compensation shall be paid when the last day of the injurious exposure of the employee to the hazard of the occupational disease has occurred prior to the effective date of this act except as in this section, paragraph 'A,' subparagraph 4 provided. Limitation.

2. No compensation shall be paid for a disease other than silicosis *or due to ionizing radiation* unless total disability results within one hundred twenty (120) days from the last day upon which the employee actually worked for the employer against whom compensation is claimed; provided that the board upon good cause shown may waive this limitation in the interest of justice, but in any case said period may not be extended to more than one year from the date of last employment by the said employer. Compensation limited to silicosis and disease due to ionizing radiation —exception.

3. No compensation shall be paid in case of silicosis unless during the eight years immediately preceding the Silicosis— limitation for compensation.

HeinOnline -- 1965 179 1965

disablement the injured employee has been exposed to harmful quantities of silicon dioxide dust for a total period of not less than one thousand (1,000) workshifts in employment in this state and unless total disability results within four years from the last day upon which the employee actually worked for the employer against whom compensation is claimed.

Silicosis—discharged employee.

4. Provided, however, that any silicotic employee who is discharged by his employer to escape liability for silicosis benefits under this act shall be eligible to receive compensation under this act when totally disabled if he has seven hundred (700) actual workshifts since January 1, 1954 for that employer, provided, further, when any employee in employment on or after January 1, 1959, because he has an occupational disease incurred in and caused by such employment, which is not yet disabling, is discharged or transferred from the employment in which he is engaged, or when an employee ceases such employment and it is in fact, as determined by the medical panel, inadvisable for him on account of such nondisabling occupational disease, to continue in it, and suffers wage loss by reason of such discharge, transfer, or such cessation, the board may allow compensation on account thereof as it may deem just, not exceeding five thousand dollars ($5,000.00).

Discharge or transfer—disease not yet disabling.

Filing of claim in writing.

5. No claim shall be maintained nor compensation paid unless the claim has been filed with the employer, the insurer, of [or] the board, in writing under oath within the time fixed by section 92-1312.

Compensation paid to whom.

B. The compensation shall be paid to the beneficiary and dependents of every employee covered by this act in cases where death results from an occupational disease arising out of his employment subject to the following conditions:

Conditions.

Effective date of act.

1. No compensation shall be paid when the last day of injurious exposure of the employee to the hazards of the occupational diseases has occurred prior to the effective date of this act, except as in this section, paragraph 'A,' subparagraph 4 of this act provided.

Workshifts.

2. No compensation shall be paid for death from silicosis unless during the eight years immediately preceding the disablement the deceased employee has been ex-

HeinOnline -- 1965 180 1965

posed to harmful quantities of silicon dioxide dust for a period of not less than one thousand (1,000) workshifts in employment in this state.

Death.

3. No compensation shall be paid for death from silicosis unless the death results within four (4) years from the last day upon which the employee actually worked for the employer against whom compensation is claimed, except in those cases where death results during a period of continuous total disability from silicosis for which compensation has been paid or awarded, or for which a claim, compensable but for such death, is on file with the commission. In such cases compensation shall be paid if death results within seven (7) years from the last day upon which the employee actually worked for the employer against whom compensation is claimed.

Death—compensation—filing of claim.

4. No compensation shall be paid for death from any occupational disease other than silicosis *or due to ionizing radiation* unless death results within one (1) year from the last day upon which the employee actually worked for the employer against whom compensation is claimed, except in those cases where death results during a period of continuous total disability from an occupational disease other than silicosis *or ionizing radiation* for which compensation has been paid or awarded, or for which a claim, compensable but for such death, is on file with the board. In such cases compensation shall be paid if death results within three (3) years from the last day upon which the employee actually worked for the employer against whom compensation is claimed.

Filing of claim.

5. No claim shall be maintained nor compensation paid unless the claim has been filed with the employer, the insurer or the board, as the case may be in writing within the time fixed by section 92-1312.

Proof of exposure.

C. Proof of the exposure to silicon dioxide dust for a period of not less than one thousand two hundred (1,200) workshifts in employment in this state, with proof of total disability from silicosis, shall be prima facie evidence of exposure to harmful quantities of such dust during all such period."

Amending clause.

Section 2. Section 92-1313, R. C. M., 1947, is amended to read as follows:

Notice of disability or death—when given—exception.

"92-1313. **Notice of disability or death.** The provisions of section 92-807 shall not apply to cases of disabil-

HeinOnline -- 1965 181 1965

ity or death from occupational diseases as in this act defined.

Notice of disability or death—silicosis excepted.

Notice of disability or death in respect to which compensation is payable under this act, except disability or death resulting from silicosis, shall be given to the employer, the insurer, or the board, as the case may be, within thirty (30) days after the employee, his beneficiaries, or his dependents knew or should have known the nature of the impairment or cause of death and its relationship to the employment, but in no event, *except in the case of disability or death due to ionizing radiation,* shall notice be filed more than one year after the last day upon which the employee actually worked for the employer against whom compensation is claimed.

Silicosis—notice of disability.

In cases of disability resulting from silicosis which are compensable under this act, notice of such disability shall be given to the employer, the insurer, or the board as the case may be, within thirty (30) days after the employee knew or should have known of the nature of the impairment and its relationship to employment, but in no event shall such notice be filed more than four (4) years after the last date upon which the employee actually worked for the employer against whom compensation is claimed.

Silicosis—notice of death.

In cases of a death from silicosis which is compensable under this act, notice of such death shall be given to the employer, the insurer, or the board, within thirty (30) days after the employee's beneficiaries or his dependents knew or should have known of the cause of death and its relationship to the employment, but in no event shall such notice be filed more than one (1) year after such death.

Notice—validity.

Such notice shall be valid only if filed in writing on forms to be furnished by the board, and shall contain the name and address of the employee and a statement of the time, place, nature, and cause of the disability or death, and shall be signed by the employee or by some other person on his behalf; or in case of death by any person claiming to be entitled to compensation for such death or by some person on his behalf.

Exception.

Except if death occurs during the period of total disability described in section 92-1311, B. 3., in which case

HeinOnline -- 1965 182 1965

the period of notice may be extended to the term of seven (7) years from the last day of said employment."

Approved February 27, 1965.

CHAPTER 93

An Act Amending Section 75-3612, R. C. M. 1947, Relating to the Foundation Program; Providing for a Minimum Budget for an Elementary School Not Approved as an Isolated School; Providing for the Financing of Such Budget; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-3612, R. C. M. 1947, is amended to read as follows: Amending clause.

"75-3612. **Foundation program.** The moneys available for state equalization aid shall be distributed and apportioned to provide an annual minimum operating revenue for the elementary and high schools in each county, exclusive of revenues required for debt retirement, and for the payment of any and all costs and expense incurred in connection with any adult education program, kindergarten, recreation program, school lunch and cafeteria program, new buildings, new grounds, and transportation, in accordance with the following schedules: Foundation program—distribution of moneys available. Schedules.

Elementary Schools Elementary schools.

The foundation program shall be seventy-five per cent (75%) of the maximum budget as set forth in section 75-1713.1, R. C. M. 1947 *except for an elementary school having an ANB of nine (9) or fewer pupils which is not approved as an isolated school; for such school the minimum general fund budget shall be seventy-five per cent (75%) of the maximum budget as set forth in section 75-1713.1, R. C. M. 1947, provided that the formula for apportioning county funds as provided in section 75-3618, R. C. M. 1947 and the formula for apportioning state equalization aid as provided in section 75-3619, R. C. M. 1947 shall apply only to one-half of such minimum budget of such school, and provided further that the remaining one-half of such minimum budget shall be financed by a tax* Exception.

HeinOnline -- 1965 183 1965

levied on the property of the school district in which such school is located.

High schools.

High Schools

The foundation program shall be seventy-five per cent (75%) of the maximum budget as set forth in section 75-4518.1, R. C. M. 1947."

Effective immediately.

Section 2. This act is effective upon passage and approval.

Approved February 26, 1965.

CHAPTER 94

An Act to Amend Section 10-622, Revised Codes of Montana 1947, Relating to the Appointment, Removal and Salaries of Probation Officers for the Juvenile Departments of District Courts in the State of Montana; Providing for Salary Increases and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 10-622, R. C. M. 1947, is hereby amended to read as follows:

Probation officers —appointments —removal —salaries.

"10-622. **Probation officers—appointments—removal—salaries.** In every judicial district of the state of Montana the judge thereof having jurisdiction of juvenile matters may appoint one discreet person of good moral character, who shall be known as the chief probation officer of such district and who shall hold his office until removed by the court. Such officer shall receive for his services such sum as shall be specified by the court upon appointment, provided that the judge of the district court may employ him on a yearly salary not to exceed *six thousand nine hundred dollars ($6,900.00)*, or on a per diem basis for the time actually and necessarily employed in performing the duties of the office. The salary of such officer shall be apportioned among and paid by each of said counties in which said officer shall be appointed to act, in proportion to the assessed valuation of such counties for the year then current, except that where such official is appointed for one county, his salary shall be paid by that county.

Compensation.

Salary paid by.

HeinOnline -- 1965 184 1965

Appointment of additional persons as deputies—salary.

The judge having jurisdiction of juvenile matters may also appoint such additional persons to serve as deputy probation officers as the judge deems necessary; their salaries to be fixed by the judge at the time of appointment, provided that such salaries shall not exceed ninety per cent (90%) of the salary of the chief probation officer."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 27, 1965.

CHAPTER 95

An Act Relating to Occupational Disease Compensation Act, Amending Section 92-1304, Revised Codes of Montana, Adding to the List of Compensable Diseases Specified.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 92-1304, Revised Codes of Montana, 1947, be, and the same is hereby amended to read as follows:

Occupational diseases.

"92-1304. **Occupational disease.** The following diseases only shall be termed occupational diseases.

1. Silicosis, *asbestosis.*
2. Poisoning by
   - (a) Arsenic or its compounds.
   - (b) Antimony or its compounds.
   - (c) Cadmium or its compounds.
   - (d) Chrome or its compounds.
   - (e) Lead or its compounds.
   - (f) Manganese or its compounds.
   - (g) Mercury or its compounds.
   - (h) Phosphorous or its compounds.
   - (i) Selenium or its compounds.
   - (j) Vanadium or its compounds.
   - (k) Zinc or its compounds.
   - (l) Sulphur or its compounds.
   - (m) Copper or its compounds.
   - (n) Benzine or its derivatives.

HeinOnline -- 1965 185 1965

(o) Benzol or its derivatives.
(p) Hydrocarbons.
(q) Carbon derivatives.
(r) Carbon tetrachloride.

3. Tamarack poisoning.

4. Anthrax caused by handling of wool, hair, bristles, hides or skins.

5. Poisoning or disease due to exposure to X-ray or radioactive substances.

Employer may elect to insure against other diseases.

6. Provided, however, that regardless of the specific listings, heretofore, any employer who so elects may insure against disablement by other diseases arising out of or contracted from and in the course of their employment if such insurance has been approved by the board."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 27, 1965.

CHAPTER 96

An Act to Amend Section 75-5003, R. C. M. 1947, Relating to Special Education for Mentally Retarded and Physically Handicapped Children; to Provide for the Use of Existing Classes in Lieu of Local Provision of Special Classes; and Providing for the Computation of State Reimbursement for In School Programs Approved by the State Superintendent of Public Instruction.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-5003, R. C. M. 1947, is amended to read as follows:

Local boards—powers—determination of children requiring special education —reimbursement by state —computation.

"75-5003. **Local boards of trustees — powers — determination of children requiring special education and the type of education responsibility of state superintendent—reimbursement by state—computation.** The board of trustees, *responsible for the operation of any public school* when it appears that there are not less than ten (10) educable mentally retarded or *not less than ten (10)* physi-

HeinOnline -- 1965 186 1965

cally handicapped children in the district, must maintain *at least one* special *class* for educable mentally retarded children or *at least one special class* for physically handicapped children, (and may provide classes for the trainable mentally retarded children.) *In lieu of providing such special classes the board of trustees* may arrange to use the services of such approved mentally retarded or physically handicapped children's classes as may exist *and* may provide transportation services from home to school and return for all handicapped children enrolled in a state-approved special education program of such ages as it deems wise; provided, that the local board has the right to exclude persons of severe delinquent behavior. The determination of the children requiring special education and the type of special education needed by these handicapped children shall not be the responsibility of local boards of trustees but shall be the responsibility of the state superintendent of public instruction in co-operation with appropriate medical, psychiatric and psychological advice. Two (2) or more districts may combine to provide such educational facilities.

At least one special class.

Existing classes.

Determination of children requiring special education.

Reimbursements on the part of the state for *in-school* programs *approved by the state superintendent of public instruction* shall be computed on the basis of *forty-five (45) in average number belonging. For other special education programs approved by the state superintendent of public instruction, including speech therapy, home or hospital tutoring, school-to-home telephone communication, or other individual programs, the ANB shall be computed according to a schedule prepared by the state superintendent of public instruction on the basis of the time required and the degree of special education provided; in such cases the ANB shall not exceed three (3) for each exceptional child enrolled in such program.* Transportation reimbursements shall be made on a schedule arrived at by the state superintendent of public instruction, and such expenditures shall be added to the transportation budget of the district. The state shall reimburse two-thirds of such approved transportation and the county shall reimburse the remainder of such approved transportation according to said schedule.

Reimbursements by the state.

Transportation.

Whenever a new special education class or program, to be offered for the first time in the ensuing year, has been approved by the state superintendent of public instruction

New special education class —budgeting.

HeinOnline -- 1965 187 1965

prior to the adoption of the preliminary budget, the board of trustees may include in the ANB for the budget a number anticipated to be the ANB eligible for special education computation in the ensuing year, subject to the approval of the state superintendent of public instruction.

Child enrolled in district other than that of residence —tuition.

Any child who is mentally retarded, or physically handicapped, or both, who is enrolled in a state-approved elementary school special education program which is maintained by a district other than the district in which such child resides, shall be included in the computation of average number belonging to the district maintaining the special education program, according to the provisions herein. The district in which such child resides shall pay to the district where such child attends an amount of tuition based on the tuition rates established in section 75-1630, and such payment shall be made in the manner prescribed by section 75-1630.

Child enrolled in high school in county other than that of residence —tuition.

Any such child who is enrolled in a state-approved high school special education program which is maintained by a high school located in a county other than the county in which such child resides, shall be included in the computation of the average number belonging to the high school maintaining the special education program, according to the provisions herein. The county in which such child resides shall pay to the high school where such child attends an amount of tuition based on the tuition rates established in section 75-4230, and such payment shall be made in the manner prescribed by section 75-4230.

Institution supported solely by funds of state of Montana.

When children are sent to an institution supported solely by funds of the state of Montana the home district or county will not be required to pay tuition for such child."

Effective immediately.

Section 2. This act shall be effective upon passage and approval.

Approved February 27, 1965.

CHAPTER 97

An Act Providing that a Lien of Attachment on Real Property May Be Released by the Clerk of Court

HeinOnline -- 1965 188 1965

Where No Action Has Been Taken to Foreclose Such Lien for a Period of Five Years.

Be it enacted by the Legislative Assembly of the State of Montana:

Writ of attachment levied on real property—no proceedings for 5 years—release upon application of defendant.

Section 1. If a writ of attachment has been levied on real property as provided in Section 93-4307, R. C. M. 1947, and no proceedings have been taken in the action in which the attachment was issued for a period of five years, the clerk of court shall upon application of the defendant or the record owner of such real property issue a release of the attachment and a copy of such release shall be filed with the county clerk where the writ of attachment and notice thereof is filed and the county clerk shall file and index such release as any other releases of attachment.

Approved February 27, 1965.

CHAPTER 98

An Act Relating to the Registration of Electors; to Require the County Clerk of Each County to Prepare a List of All Persons Residing in the County Who Have Reached Voting Age Since the Last General Election; and Amending Sections 23-502, 23-503, 23-505 and 23-511, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 23-502, R. C. M. 1947, is amended to read as follows:

Registry book and card index —affidavit of voter —card index.

"23-502. (554) **Registry book and card index—affidavit of voter—lost naturalization papers.** The official register of electors in each county shall be contained in a book designated 'register,' which book shall be so arranged in precincts and alphabetical divisions suitable to record the full and complete information given by each elector, and a card index of which the county clerk of such county shall at all times have the custody. The cards shall be four by six inches in size, of white calendar stock, and shall be so perforated that all cards in any drawer may be fastened in by a rod passing through such perforations, which rod shall be kept locked except when the clerk shall be making necessary changes in the register.

HeinOnline -- 1965 189 1965

Registry card —form.

The registry book herein provided shall be in such form as shall be designated by the secretary of state of the state of Montana. The registry card shall be substantially in the following form:

(Face.)

State of Montana,)
)ss.
County of .....)

.....

Number Date Name Sex

.....

Where born *Date of birth* Height Ft. - In. Occupation

.....

Naturalized when Where

.....

Residence Postoffice Sec. Twp. Rg.

.....

Length of time in Precinct Ward School Dist.

.....

State County City

.....

Date canceled Date registered Disability, if any

.....

Place where last registered

.....

State of Montana,)
)ss.
County of .....)

....., being duly sworn says: I am the elector whose name appears on the face of this card; the several statements thereon contained affecting my qualifications as an elector are true; I am able to mark my ballot (or I am unable to mark my ballot by reason of the physical disabilities on this card specified), and I am not registered elsewhere within the state of Montana and claim no right to vote elsewhere than in the precinct on this card specified, so help me God.

.....

Subscribed and sworn to before me this.....day of ....., 19.....

.....

County Clerk and Ex-officio Registrar.
By.....Deputy.

HeinOnline -- 1965 190 1965

(Back.)

Affidavit of Lost Naturalization Papers.

State of Montana,)
)ss.
County of .....)

....., being duly sworn on oath, says: I am the elector named on the face of this card; I am a naturalized citizen of the United States; my certificate of naturalization is lost or destroyed, or beyond my present reach, and I have no certified copy thereof; I came to the United States in the year.....; I was admitted to citizenship in the state (or territory) of.....county of..... by the.....court during the year.....; I last saw my certificate of naturalization, or a certified copy thereof, at.....

.....

Subscribed and sworn to before me this.....day of ....., 19.....

.....

County Clerk and Ex-officio Registrar.

By.....Deputy.

Section 2. Section 23-503, R. C. M. 1947, is amended to read as follows: Amending clause.

"23-503. (555) **Method of registering.** Any elector residing within the county may register by appearing before the county clerk and ex officio registrar and making correct answers to all questions propounded by the county clerk touching the items of information called for by such registry card, and by signing and verifying *or affirming* the affidavit or affidavits on the back of such card. Any elector in the United States service who is absent from the state of Montana and the county of which he or she is a resident may register either (a) by mailing such registry card filled out and signed under oath to the county clerk of the county in which said elector resides, or (b) by mailing the federal post card application filled out and signed under oath to said county clerk. Method of registering.

If any person shall falsely personate another and procure the person so personated to be registered, or if any person shall represent his name to the county clerk or to the registration clerk or to any other person qualified to False impersonation—misrepresentation—felony.

HeinOnline -- 1965 191 1965

register an elector, to be different from what it actually is, and cause such name to be registered, or if any person shall cause any name to be placed upon the registry lists otherwise than in the manner provided in this act, he shall be guilty of a felony, and upon conviction be imprisoned in the state penitentiary for not less than one (1) nor more than three (3) years."

Amending clause.

Section 3. Section 23-505, R. C. M. 1947, is amended to read as follows:

Notaries and justices of the peace—deputy registrars—compensation.

"23-505. (557) **Notaries and justices of the peace—deputy registrars—compensation.** All notaries public and justices of the peace are designated as deputy registrars in the county in which they reside, and may register electors residing in any precinct within the county and shall receive as compensation for their services the sum of twenty-five cents (25¢) for each elector registered by them, provided that they shall receive no compensation for their services where the elector resides less than ten (10) miles from the county courthouse. The county commissioners shall appoint *two* deputy *registrars, one from each of the two major political parties in this state,* other than notaries public and justices of the peace, for each precinct in the county. Such deputy registrar shall be a qualified, taxpaying resident elector in the precinct for which he is appointed and shall register electors in that precinct, and shall receive as compensation for his services the sum of twenty-five cents (25¢) for each elector registered by him. Each deputy registrar shall forward by mail, within two (2) days, all registration cards filled out by him to the county clerk and recorder."

Deputy registrars —number —political party.

Amending clause.

Section 4. Section 23-511, R. C. M. 1947, is amended to read as follows:

Cancellation of registry for failure to vote—reregistration —exception.

"23-511. (562) **Cancellation of registry for failure to vote—reregistration—exception of persons in United States service.** Immediately after every general election, the county clerk of each county shall compare the list of electors who have voted at such election in each precinct, as shown by the official poll books, with the official register of said precinct, and he shall remove from the official register herein provided for the registry cards of all electors who have failed to vote at such elections, and shall mark each of said cards with the word 'cancelled,' and shall place such cancelled cards for the en-

HeinOnline -- 1965 192 1965

tire county in alphabetical order in a separate drawer to be known as the 'cancelled file'; but any elector whose card is thus removed from the official register may re-register in the same manner as his original registration was made, and the registration card of any elector who thus reregisters shall be filed by the county clerk in the official register in the same manner as original registration cards are filed. The county clerk shall, at the same time, cancel, by drawing a red line through the entry thereof, the name of all such electors who have failed to vote at such election.

Electors whose registry cards are removed shall be notified in writing of such removal.

All electors whose registry cards are so removed and marked 'cancelled,' shall within thirty (30) days thereafter, be notified by the county clerk in writing of such removal, by sending a notice to such elector to his or her post office address, as appearing on the registration books, card indexes, and register of electors.

Elector in the United States service.

In the case of an elector in the United States service who shall fail to vote, his or her registry card shall not be cancelled, except for causes designated under section 23-518."

County clerk shall submit to county chairman of political parties a list of residents having reached voting age.

Section 5. The county clerk in each county shall, not later than thirty (30) days prior to the close of registration for any general election, as provided in section 23-513, R. C. M. 1947, submit to the county chairman of the two major political parties, a list of all persons residing in the county, who have reached voting age since the last general election. This list shall be prepared from all available sources in the county, and it shall be the duty of the other county, city and school officials to cooperate with the county clerk in preparing such list. The county clerk and other officials shall, in no event, be responsible for any honest error or omission in preparing such list.

Approved March 1, 1965.

CHAPTER 99

An Act Amending Sections 91-4415 and 91-4417, R. C. M. 1947, Providing for Limitations on Liens for Inheritance Tax.

HeinOnline -- 1965 193 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 91-4415, R. C. M. 1947, is amended to read as follows:

Taxes imposed by act due and payable at death of decedent—exceptions—lien—liability.

"99-4415. All taxes imposed by this act shall be due and payable at the time of the death of the decedent, except as hereinafter provided; and every such tax shall be and remain a lien upon the property transferred for a period of ten years from the time of the death of the decedent, *whether said death occurred before or after the effective date of this act,* unless sooner paid, and the person to whom the property is transferred and the administrators, executors, and trustees of every estate so transferred shall be personally liable for such tax until its payment.

Tax payable to treasurer of state or county.

The tax shall be paid to the state treasurer or to the treasurer of the county in which the district court is situated having jurisdiction as herein provided, and if paid to the county treasurer said treasurer shall make triplicate receipts of such payment, one of which he shall immediately send to the state treasurer, whose duty it shall be to charge the county treasurer so receiving the tax, with the amount thereof, and the other receipt shall be delivered to the executor, administrator, or trustee, whereupon it shall be a proper voucher in the settlement of his accounts. One he shall keep on file in his office.

Receipt of tax paid or bond required for final accounting.

No executor, administrator, or trustee shall be entitled to a final accounting of an estate, in settlement of which a tax is due under the provisions of this act, unless he shall produce such receipt or a certified copy thereof or unless a bond shall have been filed as prescribed by section 91-4419."

Amending clause.

Section 2. Section 91-4417, R. C. M. 1947, is amended to read as follows:

Executors, administrators or trustees—power to sell property to pay tax—requirements.

"91-4417. Every executor, administrator or trustee shall have full power to sell so much of the property of the decedent as will enable him to pay such tax in the same manner as he might be entitled by law to do for the payment of the debts of the testator or intestate. Any such administrator, executor, or trustee, having in charge or in trust any legacy or property for distribution, subject to such tax, shall deduct the tax therefrom; and within thirty days therefrom shall pay over the same to the county treasurer, as herein provided. If such legacy

HeinOnline -- 1965 194 1965

or property be not in money, he shall collect the tax thereon upon the appraised value thereof, from the person entitled thereto. He shall not deliver or be compelled to deliver any specific legacy or property subject to tax under this law, to any person until he shall have collected the tax thereon. If any such legacy shall be charged upon or payable out of real property, the heir or devisee shall deduct such tax therefrom and pay it to the administrator, executor, or trustee, and the tax shall remain a lien or charge on such real property *for the period provided in section 91-4415,* and the payment thereof shall be enforced by the executor, administrator, or trustee in the same manner that payment of the legacy might be enforced, or by the attorney general under section 91-4440. If any such legacy shall be given in money to any such person for a limited period, the administrator, executor, or trustee shall retain the tax upon the whole amount, but if it be not in money, he shall make application to the court having jurisdiction of an accounting by him to make an apportionment if the case require it, of the sum to be paid into the hands of such legatees, and for such further order relative thereto as the case may require."

Approved March 1, 1965.

CHAPTER 100

An Act Authorizing Two or More Counties to Construct, Purchase, Lease, Equip and Operate a Joint County Hospital or Nursing Home for the Aged; Providing Definitions.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act, the following definitions shall apply: Definitions.

(1) "joint institution" means a county hospital or nursing home for the aged, constructed, purchased, leased, equipped, and operated by two or more counties pursuant to the terms of the contract creating it. "Joint institution."

(2) "contract" means the agreement entered into by two or more counties for the purpose of creating a joint institution. "Contract."

HeinOnline -- 1965 195 1965

Counties may contract to create a joint institution.

Section 2. Two or more counties may, by contract, create a joint institution which will be operated and financed by the contracting counties.

Contract—to provide.

Section 3. The contract creating the joint institution shall provide:

Total proposed expenditure.

(1) the total proposed expenditure for the construction, purchase or lease of the joint institution and the proposed cost of equipping and operating the joint institution. The total cost of the joint institution shall be divided between the contracting counties in such manner as they shall determine.

Method of management.

(2) for the management of the joint institution by a method which will provide that each contracting county shall be represented and have an active part in the management of the joint institution.

Powers of management.

(3) that the management of the joint institution shall have such powers as will be necessary to accomplish the purpose of this act.

Approved March 1, 1965.

CHAPTER 101

An Act Providing for Payments by the State to School Districts If Children of a State Employee Who Resides on the Property of a State Institution Attend School in the District.

Be it enacted by the Legislative Assembly of the State of Montana:

"Employee."

Section 1. (1) As used in this act "employee" means an employee of a public institution as defined in Section 80-1203, R. C. M. 1947, who resides on the property of the public institution.

School district shall receive annual money for state equalization aid —pupils whose parents are employees of an institution —amounts.

(2) A school district shall receive annually from moneys available for state equalization aid one hundred fifty dollars ($150.00) for each elementary pupil, and two hundred fifty dollars ($250.00) for each high school pupil, whose parents are employees of an institution located in the school district where the pupil attends school or in a school district which has a tuition agreement with the district where the pupil attends school.

HeinOnline -- 1965 196 1965

(3) The school board of a school district which is eligible for such aid shall apply to the state superintendent of public instruction. Board shall apply for aid to state superintendent.

(4) Payments received under this act shall be deposited to the credit of the general fund of the school district. Such payments shall not be considered as part of normal state equalization aid. Payments received —disposition.

Approved March 1, 1965.

CHAPTER 102

An Act Amending Section 61-212, R. C. M., 1947, Relating to the Inheritance Rights of an Adopted Child, His Adoptive Kindred, and His Natural Kindred.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 61-212, R. C. M., 1947, is amended to read as follows: Amending clause.

"61-212. (1) After the final decree of adoption is entered the relation of parent and child and all the rights, duties and other legal consequences of the natural relation of child and parent shall thereafter exist between such adopted child and the adoptive parents adopting such child and the kindred of the adoptive parents. From the date of the final decree of adoption, the child shall be entitled to inherit real and personal property from and through the adoptive parents *and the kindred of the adoptive parents* in accordance with the statutes of descent and distribution, and the adoptive parents *and their kindred* shall be entitled to inherit real and personal property from and through the child in accordance with said statutes. Legal relation of natural parent and child shall exist between parent and adopted child —kindred of adoptive parents —inheritance.

(2) After a final decree of adoption is entered, the natural parents *and the kindred of the natural parents* of the adopted child, unless they are the adoptive parents or the spouse of an adoptive parent shall be relieved of all parental responsibilities for said child and have no rights over such adopted child or to his property by descent and distribution." Natural parents and kindred of same unless adoptive parents or spouse relieved of parental responsibility— no rights to property by descent and distribution.

Approved March 1, 1965.

HeinOnline -- 1965 197 1965

CHAPTER 103

An Act to Amend Section 81-1704, R. C. M. 1947, to Provide for the Rate and Time of Royalty Payment and the Effect Thereof, for Gas Not Sold or Used Off the Premises; Repealing All Acts or Parts of Acts in Conflict Herewith; and Providing an Effective Date for This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 81-1704, R. C. M. 1947, is amended to read as follows:

Royalty—time for payment—computation—minimum royalty.

"81-1704. (1882.4) **Royalty — time for payment — computation** — *minimum royalty.* In every oil and gas lease granted by the state *under the provisions of chapter 17 of title 81, R. C. M. 1947, and acts amendatory thereto,* there shall be reserved to the state as consideration therefor, in addition to the rentals as hereinbefore provided, a royalty in all oil and gas produced and saved from all lands covered thereby, and not used for light, fuel, and operation purposes on the leased premises, which shall be equivalent to the full market value, as ascertained by the state board of land commissioners at the date of such lease, of the estate or interest of the state in the lands and oil and gas deposits disposed of under such lease; provided that such royalty reservation shall be twelve and one-half per centum (12½%) on gas, and twelve and one-half per centum (12½%) on that portion of the average production of oil or casing-head gasoline for each producing well not exceeding *three thousand (3,000)* barrels for the calendar month*; provided, further, that the royalty on gas, including casing-head gas and all gaseous substances, while the same is not sold or used off the premises shall be at the rate of two hundred dollars ($200.00) per well each year or the amount of the annual rental provided in said lease, in lieu of such per well rate, whichever is the greater, payable on or before the annual anniversary date of the lease, and as long as such leased lands contain a well capable of such production and such payment is made the lease shall be considered as a producing lease under the lease terms.* Such lease shall provide for the rendering of payment of such royalty *on all oil and gas produced and saved and sold or used off the premises* in the following manner and upon the following terms:

Royalty reservation.

Payment of royalty—terms.

HeinOnline -- 1965 198 1965

The lessee shall pay to the state, in cash, for all oil and gas royalty reserved, the posted field price existing on the day such oil or gas is run into any pipe line or storage tank to the credit of the lessee, plus any bonus actually paid, or agreed to be paid, to the lessee, for such oil or gas; or, at the option of the state, exercised in writing by the state board of land commissioners not oftener than every thirty (30) days, the lessee shall deliver the state's royalty oil or gas free of cost or deductions, into the pipe line to which the wells of the lessee may be connected or into any storage designated by the state and connected with such wells."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after the date of its passage and approval.

Approved March 1, 1965.

CHAPTER 104

An Act to Amend Section 81-1715, R. C. M. 1947, to Provide for the Re-leasing of Oil and Gas Leases Expiring or Terminating for Any Cause by Advertising the Same for Sale at Public Auction; Providing for Preferential Rights of Prior Lessee on Lands Where Oil or Gas Has Been Produced; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date for This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 81-1715, R. C. M. 1947, is amended to read as follows:

Advertising for bids on re-lease of producing oil or gas land.

"81-1715. (1882.15) **Advertising for bids on re-lease of producing oil or gas land.** In the case of all leases issued under *the provisions in force prior to the effective date of section 1 of chapter 122, Laws of 1953,* where oil or gas *is being* produced, the state board of land commissioners shall at the expiration thereof, or termination for any cause, advertise the land held thereunder for re-leasing and lease the same to the highest responsible bidder therefor at public auction *on the terms then exist-*

HeinOnline -- 1965 199 1965

Auction—terms—privilege of holder.

ing for such leasing; provided, however, that any person, association, firm or corporation who held such lease at the expiration thereof shall have the privilege of re-leasing the same at such highest responsible bid offered therefor upon such terms and conditions as may be prescribed by the state board or the legislative assembly.

Leases—oil or gas not being produced.

In the case of all leases issued under *the provisions in force prior to the effective date of section 1 of chapter 122, Laws of 1953,* where oil or gas *is* not *being* produced, the board *may* at the expiration thereof, or termination for any cause, advertise the land held thereunder for re-leasing and lease the same to the highest responsible bidder therefor at public auction, if in the judgment of the board such advertising and public auction will result in leasing of the land on terms advantageous to the state."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be effective from and after the date of its passage and approval.

Approved March 1, 1965.

CHAPTER 105

An Act to Provide for the Creation of a School District Within an Existing School District by a Licensed Nonsectarian Child Institution for the Education of Children If said Procedure Is Acceptable to the Existing School District; Providing for the Creation and Acceptance and the Operation of the Newly Created School District; Defining Licensed Nonsectarian Child Care Institution; Providing for the Expansion of Said School District and the Attendance of Pupils and Designating Students Who Shall Be Part of Newly Created School District; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Licensed nonsectarian child care institution.

Section 1. A licensed nonsectarian child care institution for the purpose of this act shall mean a nonsectarian institution licensed annually and regulated by the state of Montana.

HeinOnline -- 1965 200 1965

Creation of a new school district by a licensed child care institution within an existing school district.

Section 2. Notwithstanding any other statutes of Montana relating to the creation, consolidation, annexation or abandonment of school districts, there may be created within any existing school district a new school district by a duly licensed child care institution operating facilities within said existing school district in the manner set forth herein.

Creation of separate school district by superintendent.

Section 3. The county superintendent or superintendents of a school district shall create a separate school district for the education of children attending a duly licensed child care institution;

Application.

(1) When an application of a duly licensed child care institution is submitted to him or them; or

Petition.

(2) When the petition of twenty per cent (20%) of the resident freeholders residing within a school district where such a child care institution is operating is submitted to him or them.

Plan of operation —approval—area —order of superintendent.

The child care institution within the new district shall submit a plan of operation including details of financing to the county superintendent or superintendents. The plan must be approved by him or them before the institution may operate under it. And be it further approved that all such money as has accrued shall remain to the credit of the parent school district. The application of the duly licensed child care institution or when petition is made shall specifically describe the area proposed to be included within said new school district, the estimated number of qualified electors and of pupils in said district and the estimated assessed valuation and taxable valuation of the property within such area as shown by the last completed assessment roll district. The clerk of the school district shall forthwith advise the county superintendent of the action of the board and the county superintendent of schools shall within ten (10) days after receiving such advice make an order in accordance therewith, provided that if the county superintendent shall conclude that the creating, existence and operation of such a new school district is not practical or feasible he shall have the authority to disapprove the same. The action taken by the county superintendent shall be subject to review by the state superintendent of public instruction whose decision shall be final.

HeinOnline -- 1965 201 1965

Receipt of application—hearing—notice.

Section 4. On receipt of such an application the county superintendent shall set a time for a hearing with respect to said application within thirty (30) days of such receipt and notice thereof shall be posted on the front door of the schoolhouse of the existing school district where the hearing is to be held for at least ten (10) days prior to such hearing. The hearing shall be open to the public and shall be at the schoolhouse of the existing district or at a designated schoolhouse if there be more than one and there shall be in attendance the trustees and clerk of the existing school district who shall be separately notified in writing of the time and place of the hearing by the county superintendent. The applicant shall also be notified in writing of the time and place of the hearing by the county superintendent. Such notice shall be given at least ten (10) days prior to the hearing.

Record of proceedings.

The county superintendent shall preside at the hearing and shall see that a record of the proceedings is kept.

Applicant—information and data.

Section 5. The applicant shall present such information and data in support of its application as it deems necessary and appropriate. The trustees of the existing district and the county superintendent may ask such questions as are pertinent to the application of any person or persons presenting information or data in behalf of the applicant and may present information and data in support of or in opposition to the application.

Board of trustees of existing district—vote on new district.

Section 6. Within thirty (30) days after the hearing the board of trustees of the existing district shall at a regular or special meeting thereof determine by majority vote whether or not the proposed new district is acceptable to the existing district. The clerk of the school district shall forthwith advise the county superintendent of the action of the board and the county superintendent shall within ten (10) days after receiving such advice make an order in accordance therewith, provided that if the county superintendent shall conclude that the creating, existence and operation of such a new school district is not practical nor feasible he shall have the authority to disapprove the same. The action taken by the county superintendent shall be subject to review by the state superintendent of public instruction whose decision shall be final.

Order of action.

Review.

HeinOnline -- 1965 202 1965

Order for new district—boundaries—number—effective date—trustees—laws.

Section 7. If the order of the county superintendent shall provide for the creation of a new school district he shall specifically describe the boundaries thereof, designate the number of such school district and the said new district shall exist from and after the first day of July following the making of such an order. The county superintendent shall name the first trustees and designate the terms of office to be served by each until subsequent school elections shall determine their successors. All of the existing laws relating to school districts and their operations not inconsistent with this act shall apply to and govern such newly created district.

Acquisition of land by child care institution contiguous to new school district—children of residents shall attend school in new school district.

Section 8. In the event the duly licensed child care institution shall acquire land contiguous to the new school district after the creation of such school district, all children of persons residing upon such land shall attend the school for which the new school district was created for the duly licensed child care institution and such acquisition of land shall, upon acquisition by the duly licensed child care institution, be deemed for all purposes attendant with school and school affairs as part of the school district created for the duly licensed child care institution and the county superintendent of schools shall consider such newly acquired land as may be acquired as the new boundary for the school district created for the duly licensed child care institution and such lands acquired shall be deemed a part of and within the duly licensed child care institution's school district.

Effective immediately.

Section 9. This act shall be effective on its passage and approval.

Approved March 1, 1965.

CHAPTER 106

An Act Amending Section 69-3203, R. C. M. 1947, to Permit the State Board of Health to Provide Services to Children Afflicted With or Suffering from Cystic Fibrosis.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-3203, R. C. M. 1947, is amended to read as follows:

HeinOnline -- 1965 203 1965

State board of health to develop and administer a program for services to crippled children.

"69-3203. The state board of health is hereby authorized and directed to develop and administer a program for services to crippled children, which shall have for its purpose, as far as practicable under the conditions existing in the state of Montana, to supply, extend and improve the services designated by this act for crippled children in the state of Montana. These services shall consist of locating such children and providing diagnosis, medical, surgical and corrective treatment, after-care and related services for children who are crippled, or who are suffering from conditions which lead to crippling; and the board may, in its discretion, within the limits of its funds, provide services for children who are afflicted with or suffering from rheumatic fever, *cystic fibrosis,* or heart diseases, and who are totally incapacitated for education or for remunerative occupation. Special attention shall be given to this program in rural areas and in areas suffering from severe economic distress. The board shall do all things that are necessary to carry out this program, in so far as means are available and conditions in this state justify, and shall proceed in conformity with the Social Security Act of the United States, rules and regulations promulgated by the United States children's bureau, and the statutes of the state of Montana."

Services to consist of

Special attention in rural areas and areas suffering from severe economic distress.

Approved March 1, 1965.

CHAPTER 107

An Act for the Prevention, Control and Treatment of Venereal Diseases; Providing for Powers and Duties of State, County and Local Boards of Health, Physicians and Other Persons; Providing for the Methods of Control, Prevention and Treatment of Venereal Diseases; and Repealing Sections 69-1101, 69-1102, 69-1103, 69-1104, 69-1105, 69-1106, 69-1107, 69-1108, 69-1109, 69-1110, 69-1111, 69-1112, 69-1113, 69-1114, 69-1115, 69-1116, 69-1117, 69-1118, 69-1119, 69-1120 and 69-1121, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1965 204 1965

State board of health shall have authority to cooperate with the federal public health service for the purpose of prevention, control and treatment of venereal diseases.

Section 1. For the purpose of prevention, control and treatment of venereal diseases, the state board of health shall have authority to cooperate in the state of Montana with the federal public health service created by acts of Congress of the United States, including section 246 under chapter 6A, title 42, United States Code, Annotated, and acts hereafter amendatory thereof and supplemental thereto, and acts of the Congress of the United States appropriating money for such activities, as such appropriations are, from time to time, made by the Congress. The state board of health shall, itself, irrespective of appropriations, if any, made by the Congress to the state for the prevention, control and treatment of venereal diseases, undertake to prevent, control and prescribe treatments for such diseases in such ways and by such means, including education campaigns, as may be practicable, and within the limits of funds supplied for such purposes by the legislative assembly. In carrying out and discharging the duties hereby assigned to it in the field of venereal diseases, the board may appoint such personnel, to serve subject to its orders and directives, as may be reasonably necessary to realize the objectives in the field, and as may be compensated within the limits of appropriations made by the legislative assembly, or by the Congress.

State board of health shall undertake to prevent, control and prescribe treatments for venereal diseases.

Appointment of personnel by board.

State treasurer authorized to accept and disburse moneys allocated and paid to the state of Montana by act of Congress for the prevention, control and treatment of venereal diseases.

Section 2. The state treasurer is hereby authorized to accept, under the conditions of said acts of Congress, and other acts applicable to the subject matter, and to disburse, under the direction and control of the state board of health in compliance with such acts, all moneys received by or allocated to the state of Montana, under said acts of Congress, or otherwise allotted and paid to the state of Montana by the government of the United States for the prevention, control and treatment of venereal diseases.

Venereal diseases —contagious, infectious, communicable and dangerous to the public health —unlawful to knowingly expose another.

Section 3. That syphilis, gonorrhea, chancroid, lymphogranuloma venereum and granuloma inguinale, hereinafter designated as venereal diseases, are hereby declared to be contagious, infectious, communicable, and dangerous to the public health. It shall be unlawful for any one infected with any of these diseases to knowingly expose another person to infection.

Treating physician —record and report of diagnosis.

Section 4. Any physician who makes a diagnosis of or treats a case of venereal disease shall make a record of

HeinOnline -- 1965 205 1965

each such case and report each such case to the state board of health in the manner and on forms provided by the state board.

Health officers directed and empowered to make examinations and to require treatment—quarantine.

Section 5. State, county and local health officers, their authorized deputies or agents, within their respective jurisdictions, are hereby directed and empowered when in their judgment it is necessary or desirable to protect or safeguard the public health, to make examinations of persons reasonably suspected of being infected with venereal disease, to require persons infected with venereal disease to report for treatment to a reputable physician and continue treatment until cured, or to submit to treatment provided at public expense until cured; and to isolate or quarantine persons who refuse such examination or treatment. No one but the local, county or state health officer shall terminate such isolation or quarantine. Such examinations may be made repeatedly as often as deemed advisable or desirable. It shall be the duty of all local, county and state health officers, or their authorized deputies, within their respective jurisdictions, to investigate sources of infection of venereal diseases.

Termination of quarantine.

Duty to investigate.

Examination and treatment of persons imprisoned.

Section 6. All persons confined or imprisoned in any state, county or city prison in the state may be examined for, and if infected, treated for venereal diseases by the health authorities or their deputies.

Persons knowing or having good reason to suspect an infected person of misconduct shall notify a health officer.

Section 7. If an attending physician or other person knows or has good reason to suspect that a person having a venereal disease is so conducting himself or herself as to expose other persons to infection, or is about to so conduct himself or herself, he shall notify the local or county health officer of the name and address of the diseased person, and the essential facts in the case.

Only licensed physicians shall prescribe drugs for the cure of venereal disease.

Section 8. No person, not a physician licensed under the laws of the state, shall prescribe or recommend to any person any drugs, medicines or other substances to be used for the cure or alleviation of venereal disease or shall compound any drugs or medicines for said purpose, from any written formula or order not written for the person for whom the drugs or medicines are compounded, and not signed by a physician licensed under the laws of the state.

HeinOnline -- 1965 206 1965

Prohibition of issuance of certificates of freedom from venereal disease —exception —limitation of use.

Section 9. Physicians, health officers and all other persons are prohibited from issuing certificates of freedom from venereal disease, providing this rule shall not prevent the issuance of necessary statements of freedom from infectious diseases, written in such form or given under such safeguards that their use in solicitation for sexual intercourse would be impossible. Such certificates shall not be used or exhibited for solicitation for immoral purposes.

Information and reports shall be confidential.

Section 10. All information and reports concerning persons infected with venereal diseases shall be confidential and inaccessible to any person except authorized personnel of the state board of health or a physician who has the written consent of the person whose record is requested.

State board of health empowered and directed to make necessary rules and regulations— force and effect of law.

Section 11. The state board of health is hereby empowered and directed to make such rules and regulations as shall, in its judgment, be necessary for the carrying out of the provisions of this chapter. All such rules and regulations so made shall be of force and binding upon all county and municipal health officers and other persons affected by this act, and shall have the force and effect of law.

Violation of provisions— misdemeanor.

Section 12. Any person who shall violate any of the provisions of this chapter or any lawful rule or regulation made by the state board of health, pursuant to the authority herein granted, or who shall fail or refuse to obey any lawful order issued by the state, county or local health officer, pursuant to the authority granted in this act, shall be deemed guilty of a misdemeanor.

Standard serological test for syphilis —approval —erroneous report.

Section 13. A standard serological test for syphilis shall be a test for syphilis approved by the Montana state board of health, and shall be made at a laboratory approved to make such tests by said board. Such laboratory tests, as are required by this act, shall be made on request without charge at the Montana state board of health laboratory. In the event that an erroneous report has been made it shall be the duty of the Montana state board of health to expunge the error from the record.

Pregnant women to be tested for syphilis.

Section 14. Every physician or other person authorized by law to practice obstetrics who shall be attending pregnant women in the state for conditions relating to

HeinOnline -- 1965 207 1965

their pregnancy during the period of gestation or at delivery shall, in the case of every woman so attended, take or cause to be taken a sample of blood of such woman at the time of first professional visit and shall submit such sample to an approved laboratory for a standard serological test for syphilis. Every other person permitted by law to attend pregnant women in the state, but not permitted by law to take blood samples, shall cause a sample of blood of such pregnant women to be taken by a duly licensed physician or other person authorized by law to take such sample of blood and have such sample submitted to an approved laboratory for a standard serological test for syphilis. Any physician or other person engaged in attendance upon a pregnant woman who requests a sample of blood in accordance with the provisions of this section and whose request is refused, shall not be guilty of violation of the provisions of said section.

Results of positive tests.

Section 15. The results of all positive laboratory tests for venereal diseases shall be reported by the person responsible for performing the tests to the state board of health in the manner prescribed by the state board.

Statement of test on birth certificate.

Section 16. In reporting every birth and stillbirth, physicians and others required to make such reports, shall state on the certificate whether a blood test for syphilis has been made upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed and the approximate date when the specimen was taken; provided that no birth or stillbirth certificate shall show the result of such test. If no test was made the reason shall be stated.

State board of health authorized to use reported information.

Section 17. The Montana state board of health shall be authorized to use the information derived from reports of positive tests for venereal diseases for such follow-up procedures as are required by law or deemed necessary by said board for the protection of the public health.

The Montana state board of health shall provide the necessary printing, clerical and other technical assistance involved in the administration of the provisions of this chapter or any other expenditures necessary for carrying out its provisions and purposes.

Repealing clause.

Section 18. Sections 69-1101, 69-1102, 69-1103, 69-1104, 69-1105, 69-1106, 69-1107, 69-1108, 69-1109, 69-1110, 69-

HeinOnline -- 1965 208 1965

1111, 69-1112, 69-1113, 69-1114, 69-1115, 69-1116, 69-1117, 69-1118, 69-1119, 69-1120 and 69-1121, R. C. M. 1947, are hereby repealed.

Approved March 1, 1965.

CHAPTER 108

An Act Requiring a Test for Phenylketonuria to Infant Children and Empowering the State Board of Health to Adopt Necessary Rules and Regulations.

Be it enacted by the Legislative Assembly of the State of Montana:

Duty of person in charge of institution caring for new born infants to administer test for phenylketonuria.

Section 1. It shall be the duty of the administrative officer or other person in charge of each institution caring for new born infants and the person responsible for the registration of the birth of a child to cause to have administered to every such infant in its or his care a test for phenylketonuria in accordance with regulations to be prescribed by the state board of health.

State Board of health to promulgate rules and regulations.

Section 2. The state board of health is hereby empowered to adopt and prescribe and promulgate suitable rules and regulations to carry out the purpose of this act.

Effective immediatey.

Section 3. This act shall be effective on its passage and approval.

Approved March 1, 1965.

CHAPTER 109

An Act to Establish a Stable and Uniform Basis for Interstate Cooperation to Provide a Means to Speed Up the Development and Adoption of Uniform Standards for New or Improved Automotive Safety Equipment and to Be Known as The Vehicle Equipment Safety Compact; Setting Forth the Basic Purposes of the Compact; Defining Certain Terms Used in the Act; Establishing a Vehicle Equipment Safety Commission and Outlining the Composition, Duties and Responsibilities of Such Commission; Authorizing Commission to Establish Salaries and Retirement System for Full-time Em-

HeinOnline -- 1965 209 1965

ployees; Providing that Commission Will Have an Appointed Commissioner from Each Party State With Commission Business Expenses to Be Paid by Compact Commission; Empowering Commission to Carry On "Library Type" Research But Prohibiting Other Type Research and Testing; Authorizing Commission to Issue Rules and Regulations Embodying Performance Requirements for Items of Equipment After Conducting a Needs Study, Publishing Report of Such Study and Holding Hearings; Providing that Party States Are Not Obligated to Adopt Rules, Regulations or Codes of Commission But Must Consider Them; Providing That Official Adoption of Rules, Regulations or Codes of the Commission Shall Require Affirmative Action by the Legislature of the State of Montana Before Such Rules, Regulations or Codes Shall Be Effective in Montana; Requiring Commission to Submit to the Budget Director of Montana the Budget of the Commission, the Costs of Which Are to Be Apportioned Among the Member States on the Basis That Each Member State Contribute Equal Monies for One-third (1/3) of the Total Commission Budget and That the Remainder of the Budget Be Apportioned According to the Number of Motor Vehicles Registered in the Party State; Requiring That Commission Adopt Rules and Regulations to Minimize Conflicts of Interest; Authorizing Commission to Establish Advisory and Technical Committees; Providing for Entry Into and Withdrawal from Compact; Providing for Construction and Severability of Act; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

"Vehicle Equipment Safety Compact."

Section 1. This act shall be known and may be cited as the "Vehicle Equipment Safety Compact."

ARTICLE I

Findings and Purposes

Findings.

(a) The party states find that: (1) Accidents and deaths on their streets and highways present a very serious human and economic problem with a major deleterious effect on the public welfare.

(2) There is a vital need for the development of greater interjurisdictional cooperation to achieve the

HeinOnline -- 1965 210 1965

necessary uniformity in the laws, rules, regulations and codes relating to vehicle equipment, and to accomplish this by such means as will minimize the time between the development of demonstrably and scientifically sound safety features and their incorporation into vehicles.

Purposes.

(b) The purposes of this compact are to: (1) Promote uniformity in regulation of and standards for equipment.

(2) Secure uniformity of law and administrative practice in vehicular regulations and related safety standards to permit incorporation of desirable equipment changes in vehicles in the interest of greater traffic safety.

(3) To provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in subdivision (a) of this article.

Intent of compact.

(c) It is the intent of this compact to emphasize performance requirements and not to determine the specific detail of engineering in the manufacture of vehicles or equipment except to the extent necessary for the meeting of such performance requirements.

ARTICLE II

Definitions

Definitions.

"Vehicle."

As used in this compact: (a) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

"State."

(b) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

"Equipment."

(c) "Equipment" means any part of a vehicle or any accessory for use thereon which affects the safety of operation of such vehicle or the safety of the occupants.

ARTICLE III

The Commission

"Vehicle Equipment Safety Commission" —composition —duties —alternates —expenses.

(a) There is hereby created an agency of the party states to be known as the "Vehicle Equipment Safety Commission" hereinafter called the commission. The commission shall be composed of one commissioner from each

HeinOnline -- 1965 211 1965

party state who shall be appointed, serve and be subject to removal in accordance with the laws of the state which he represents. If authorized by the laws of his party state, a commissioner may provide for the discharge of his duties and the performance of his functions on the commission, either for the duration of his membership or for any lesser period of time, by an alternate. No such alternate shall be entitled to serve unless notification of his identity and appointment shall have been given to the commission in such form as the commission may require. Each commissioner, and each alternate, when serving in the place and stead of a commissioner, shall be entitled to be reimbursed by the commission for expenses actually incurred in attending commission meetings or while engaged in the business of the commission.

Vote of commissioners—when binding—action.

(b) The commissioners shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners, or their alternates, are present.

Seal.

(c) The commission shall have a seal.

Election of officers—executive director.

(d) The commission shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The commission may appoint an executive director and fix his duties and compensation. Such executive director shall serve at the pleasure of the commission, and together with the treasurer shall be bonded in such amount as the commission shall determine. The executive director also shall serve as secretary. If there be no executive director, the commission shall elect a secretary in addition to the other officers provided by this subdivision.

Appointment, removal and discharge—duties and compensation.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director with the approval of the commission, or the commission if there be no executive director, shall appoint, remove or discharge such personnel as may be necessary for the performance of the commission's functions, and shall fix the duties and compensation of such personnel.

Retirement system—employee benefits.

(f) The commission may establish and maintain independently or in conjunction with any one or more of the

HeinOnline -- 1965 212 1965

party states, a suitable retirement system for its full time employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the commission takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

Services of personnel from party state.

(g) The commission may borrow, accept or contract for the services of personnel from any party state, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party states or their subdivisions.

Acceptance of donations and grants.

(h) The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency and may receive, utilize and dispose of the same.

Facilities.

(i) The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

Bylaws—publishing—notice.

(j) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states. The bylaws shall provide for appropriate notice to the commissioners of all commission meetings and hearings and the business to be transacted at such meetings or hearings. Such notice shall also be given to such agencies or officers of each party state as the laws of such party state may provide.

Report to governor and legislature of each party state.

(k) The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year, and embodying such recommendation as may have been issued by the commission. The commission may make such additional reports as it may deem desirable.

HeinOnline -- 1965 213 1965

ARTICLE IV

Research and Testing

Powers of commission—research and testing.

The commission shall have power to: (a) Collect, correlate, analyze and evaluate information resulting or derivable from research and testing activities in equipment and related fields.

(b) Recommend and encourage the undertaking of research and testing in any aspect of equipment or related matters when, in its judgment, appropriate or sufficient research or testing has not been undertaken.

(c) Contract for such equipment research and testing as one or more governmental agencies may agree to have contracted for by the commission, provided that such governmental agency or agencies shall make available the funds necessary for such research and testing.

(d) Recommend to the party states changes in law or policy with emphasis on uniformity of laws and administrative rules, regulations or codes which would promote effective governmental action or coordination in the prevention of equipment-related highway accidents or the mitigation of equipment-related highway safety problems.

ARTICLE V

Vehicular Equipment

Study of vehicular equipment.

(a) In the interest of vehicular and public safety, the commission may study the need for or desirability of the establishment of or changes in performance requirements or restrictions for any item of equipment. As a result of such study, the commission may publish a report relating to any item or items of equipment, and the issuance of such a report shall be a condition precedent to any proceedings or other action provided or authorized by this article. No less than sixty (60) days after the publication of a report containing the results of such study, the commission upon due notice shall hold a hearing or hearings at such place or places as it may determine.

Report.

Hearing.

Rules, regulations or codes.

(b) Following the hearing or hearings provided for in subdivision (a) of this article, and with due regard for standards recommended by appropriate professional and technical associations and agencies, the commission

HeinOnline -- 1965 214 1965

may issue rules, regulations or codes embodying performance requirements or restrictions for any item or items of equipment covered in the report, which in the opinion of the commission will be fair and equitable and effectuate the purposes of this compact.

Obligation of party state to consider rules.

(c) Each party state obligates itself to give due consideration to any and all rules, regulations and codes issued by the commission and hereby declares its policy and intent to be the promotion of uniformity in the laws of the several party states relating to equipment.

Notice of action to party state.

(d) The commission shall send prompt notice of its action in issuing any rule, regulation or code pursuant to this article to the appropriate motor vehicle agency of each party state and such notice shall contain the complete text of the rule, regulation or code.

Approval by legislature of rules if required.

(e) If the constitution of a party state requires, or if its statutes provide, the approval of the legislature by appropriate resolution or act may be made a condition precedent to the taking effect in such party state of any rule, regulation or code. In such event, the commissioner of such party state shall submit any commission rule, regulation or code to the legislature as promptly as may be in lieu of administrative acceptance or rejection thereof by the party state.

Adoption of rule by motor vehicle agency of party state.

(f) Except as otherwise specifically provided in or pursuant to subdivisions (e) and (g) of this article, the appropriate motor vehicle agency of a party state shall in accordance with its constitution or procedural laws adopt the rule, regulation or code within six (6) months of the sending of the notice, and, upon such adoption, the rule, regulation or code shall have the force and effect of law therein.

Motor vehicle agency may decline to adopt a rule after finding that variation is necessary.

(g) The appropriate motor vehicle agency of a party state may decline to adopt a rule, regulation or code issued by the commission pursuant to this article if such agency specifically finds, after public hearing on due notice, that a variation from the commission's rule, regulation or code is necessary to the public safety, and incorporates in such finding the reasons upon which it is based. Any such finding shall be subject to review by such procedure for review of administrative determinations as may be applicable pursuant to the laws of the

HeinOnline -- 1965 215 1965

party state. Upon request, the commission shall be furnished with a copy of the transcript of any hearings held pursuant to this subdivision.

ARTICLE VI

Finance

Submission of budget to party state.

(a) The commission shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof.

Commission's budgets—specific recommendations —apportionment.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations under any such budget shall be apportioned among the party states as follows: one-third (1/3) in equal shares; and the remainder in proportion to the number of motor vehicles registered in each party state. In determining the number of such registrations, the commission may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning vehicular registrations.

Commission shall not pledge the credit of party state— obligations.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under Article III (h) of this compact, provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under Article III (h) hereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

Accounting.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its rules. However, all receipts and disbursements of funds handled

HeinOnline -- 1965 216 1965

by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual reports of the commission.

Open accounts.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

Audit.

(f) Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VII

Conflict of Interest

Conflict of interests —adoption of rules and regulations.

(a) The commission shall adopt rules and regulations with respect to conflict of interest for the commissioners of the party states, and their alternates, if any, and for the staff of the commission and contractors with the commission to the end that no member or employee or contractor shall have a pecuniary or other incompatible interest in the manufacture, sale or distribution of motor vehicles or vehicular equipment or in any facility or enterprise employed by the commission or on its behalf for testing, conduct of investigations or research. In addition to any penalty for violation of such rules and regulations as may be applicable under the laws of the violator's jurisdiction of residence, employment or business, any violation of a commission rule or regulation adopted pursuant to this article shall require the immediate discharge of any violating employee and the immediate vacating of membership, or relinquishing of status as a member on the commission by any commissioner or alternate. In the case of a contractor, any violation of any such rule or regulation shall make any contract of the violator with the commission subject to cancellation by the commission.

Violation— penalty— discharge.

Contractor.

Contractor's commission.

(b) Nothing contained in this article shall be deemed to prevent a contractor for the commission from using any facilities subject to his control in the performance of the contract even though such facilities are not devoted solely to work of or done on behalf of the commission;

HeinOnline -- 1965 217 1965

nor to prevent such a contractor from receiving remuneration or profit from the use of such facilities.

ARTICLE VIII

Advisory and Technical Committees

Advisory and technical committees.

The commission may establish such advisory and technical committees as it may deem necessary, membership on which may include private citizens and public officials, and may cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities.

ARTICLE IX

Entry Into Force and Withdrawal

Entry into force.

(a) This compact shall enter into force when enacted into law by any six (6) or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

Withdrawal.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one (1) year after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE X

Construction and Severability

Construction.
Validity and severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect

HeinOnline -- 1965 218 1965

as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Findings of legislature.

Section 2. The legislature finds that: (1) The public safety necessitates the continuous development, modernization and implementation of standards and requirements of law relating to vehicle equipment, in accordance with expert knowledge and opinion.

(2) The public safety further requires that such standards and requirements be uniform from jurisdiction to jurisdiction, except to the extent that specific and compelling evidence supports variation.

(3) The Montana highway patrol board, acting upon recommendations of the Vehicle Equipment Safety Commission and pursuant to the Vehicle Equipment Safety Compact, provides a just, equitable and orderly means of promoting the public safety in the manner and within the scope contemplated by this act.

Saving clause.

Section 3. (a) Provisions of Sections 32-21-114 to 32-21-161, inclusive, R. C. M. 1947, shall continue to be of force and effect.

Legislative approval.

The approval of the legislature of the state of Montana is a condition precedent to the taking effect of any rule, regulations or code that may be issued or adopted by the commission.

Montana commissioner shall be the highway patrol supervisor —alternate.

Section 4. The commissioner of this state on the Vehicle Equipment Safety Commission shall be the highway patrol supervisor who shall serve during his continuance as such officer. The commissioner of this state appointed pursuant to this section may designate an alternate from among the officers and employees of his agency to serve in his place and stead on the Vehicle Equipment Safety Commission. Subject to the provisions of the compact and bylaws of the Vehicle Equipment Safety Commission, the authority and responsibilities of such alternate shall be as determined by the commissioner designating such alternate.

Public Employees Retirement Board —agreement with commission.

Section 5. The Public Employees Retirement Board of Montana may make an agreement with the Vehicle Equipment Safety Commission for the coverage of said commission's employees pursuant to Article III (f) of the compact. Any such agreement, as nearly as may be, shall provide for arrangements similar to those available to the employees of this state and shall be subject to amendment or termination in accordance with its terms.

HeinOnline -- 1965 219 1965

Authorization of cooperation.

Section 6. Within appropriations available therefor, the departments, agencies and officers of the government of this state may cooperate with and assist the Vehicle Equipment Safety Commission within the scope contemplated by Article III (h) of the compact. The departments, agencies and officers of the government of this state are authorized generally to cooperate with said commission.

Filing of documents —notices.

Section 7. Filing of documents as required by Article III (j) of the compact shall be with the Montana highway patrol board. Any and all notices required by commission bylaws to be given pursuant to Article III (j) of the compact shall be given to the commissioner of this state and his alternate.

Budgets.

Section 8. Pursuant to Article VI (a) of the compact, the Vehicle Equipment Safety Commission shall submit its budgets to the state budget director.

State examiner —inspection of accounts.

Section 9. Pursuant to Article VI (e) of the compact, the state examiner is hereby empowered and authorized to inspect the accounts of the Vehicle Equipment Safety Commission.

Repealing clause.

Section 10. That all acts or parts of acts in conflict herewith are hereby repealed.

"Executive head."

Section 11. The term "executive head" as used in Article IX (b) of the compact shall, with reference to this state, mean the governor.

Approved March 1, 1965.

CHAPTER 110

An Act to Amend Section 68-1101, R. C. M. 1947, Relating to the Benefits Payable Upon the Death of Members of the Public Employees' Retirement System, to Provide That a Member's Nominated Beneficiary Need Not Have an Insurable Interest in the Member's Life to Qualify for Payment of the Death Benefit.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 68-1101, R. C. M. 1947, is amended to read as follows:

HeinOnline -- 1965 220 1965

"68-1101. **Death benefit.** Upon the death before retirement of a member while in the state service, or within four (4) months after the discontinuance of state service, or while physically or mentally incapacitated for the performance of his duty, if such incapacity has been continuous from the discontinuance of state service, the retirement system shall be liable for a death benefit, which death benefit shall be paid to such person *or other legal entity* as he has nominated by written designation duly executed and filed with the retirement board or, if no beneficiary shall be nominated, then pursuant to the provisions of section 68-1201; provided, however, that death benefits shall not be payable to the beneficiary of a member who (a) has elected a joint life annuity option as provided in section 68-1005, or (b) who has received a disability retirement allowance as provided for in paragraphs (i) through (l) of section 68-901, for a period of four (4) months immediately preceding death. Such death benefit shall consist of:

Death benefit.

Paid to.

Excluded.

Death benefit to consist of accumulated contributions.

(a) His accumulated contributions, and in addition thereto,

(b) An amount, provided from contributions by the state, or by a contracting city, which shall be equal to one-twelfth (1/12th) of the annual compensation earnable by the deceased during the twelve (12) months immediately preceding his death, multiplied by the number of completed years of service under the system, but not to exceed fifty (50) per centum of such compensation.

1/12 of annual compensation of deceased times years of service.

Limitation.

(c) A member, or a beneficiary after death of a member, may elect, by written designation, duly executed and filed with the board of administration to have the death benefit provided in clauses (a) and (b) paid in monthly installments, fixed in number or amount, all subject to such rules and regulations as the board may adopt. Regular interest shall be credited on the unpaid balance of such benefit, at rates then in use under the system as adopted by the board from time to time.

Election.

Interest.

(d) If compensation is awarded by the industrial accident board of the state of Montana by reason of a finding that the member's death resulted from injury or disease arising out of or in the course of employment, the death benefit payable hereunder shall be limited to a refund of the member's accumulated contributions. In

Workmen's compensation.

HeinOnline -- 1965 221 1965

any case where the industrial accident board makes a determination that death of a state employee resulted from injury or disease arising out of and in the course of employment and pays compensation therefor, the industrial accident board shall certify its findings and determination to the board of administration of the public employees' retirement system.

Survivorship provision.

(e) **Survivorship provision.** In lieu of the benefits provided in (a) and (b) above, if the deceased member is qualified by reason of service for a retirement benefit, the beneficiary, *if a natural person of legal age,* may elect to receive a monthly life annuity. Said monthly life annuity is to be based on the beneficiary's attained age at the time of the deceased member's death and to be calculated from an amount equal to the required reserve for the deceased member's creditable service, together with the deceased member's accumulated contributions; and provided that this provision be retroactive for all members who had an option for a lesser retirement allowance filed in the retirement system office at the time of their death.

Ninety days to make election.

(f) The beneficiary shall have ninety (90) days *after receipt of notice from the board of administration that he is entitled to a death benefit, to make the elections provided for in paragraphs (c) and (e) above.''*

Legislative intent —severability.

Section 2. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 4. This act is effective on its passage and approval.

Approved March 1, 1965.

CHAPTER 111

An Act to Amend Section 92-827, Revised Codes of Montana, 1947, Relating to the Record of Proceedings Be-

HeinOnline -- 1965 222 1965

fore the Industrial Accident Board; Relating to Attorney Fees; Providing for the Furnishing of a Copy Thereof to the Claimant Without Cost on Appeal to the District Court; and Providing for the Furnishing by the Board to Indigent Claimants of a Transcript on Appeal to the Supreme Court; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 92-827 of the Revised Codes of Montana, 1947, be amended to read as follows:

Record of proceedings —testimony —attorney's fees —transcripts on appeal—indigent claimants.

"92-827. (2953) **Record of proceedings to be kept and testimony to be taken down—attorney's fees**—*transcripts on appeal—indigent claimants.* A full and complete record shall be kept of all proceedings and hearings had before the board, or any member thereof, of any formal hearing had, and all testimony produced before the board or any member thereof shall be taken down by a stenographic reporter appointed by the board, and the parties shall be entitled to be heard in person or by attorney.

Attorney's fees.

Whenever the claimant or plaintiff is represented by an attorney either before the board or the courts, the industrial accident board may, in its discretion or upon the application of the claimant or plaintiff, fix the amount of the attorney fee of the attorney representing the claimant or plaintiff, and the fee fixed by the board shall be paid by claimant or plaintiff.

Transcript— copy furnished.

In cases of an action to review any order or decision of the board, a transcript of such testimony, together with all exhibits, and of the pleadings, records, and proceedings in the cause shall constitute the record of the board. Provided further, that the board must furnish a copy of such testimony, written exhibits, pleadings, records and proceedings to the claimant without cost.

Affidavit of indigent claimant deeming himself aggrieved after judgment on appeal to district court —hearing.

After judgment on appeal to the district court, an indigent claimant, deeming himself aggrieved, may file in said court an affidavit that he does not have money, property or credit sufficient to pay for the cost of a transcript on appeal to the supreme court, and the clerk of court serve a copy by registered mail, return receipt requested, on the Industrial Accident Board; the affidavit shall be prima-facie evidence of the truth of the facts

HeinOnline -- 1965 223 1965

stated therein; in the event the board contest the allegations, the court shall fix a date for the hearing thereof, not less than five nor more than ten days from date of filing, and shall make its determination of the controversy, and if it be found and adjudged that the claimant does not have sufficient money, property or credit to pay for such transcript, the order shall direct the Industrial Accident Board to furnish the same at its expense to be paid from the Industrial Accident administrative earmarked revenue account.

Continuation.

All proceedings on such appeal, including preparation, presentation and settlement of the bill of exceptions, shall be continued pending determination of the controversy.

Default.

If the board does not contest the allegations of the claimant's affidavit within ten days from receipt, it shall be deemed in default and the court shall make its order in favor of claimant on expiration of such period."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 1, 1965.

CHAPTER 112

An Act to Amend Section 94-6913, R. C. M. 1947, Relating to the Disqualification of a District Judge in Criminal Proceedings.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 94-6913, R. C. M. 1947, is amended to read as follows:

Disqualification of judge —affidavit —changes authorized— calling in judge to preside.

"94-6913. **Disqualification of judge—affidavit—number of changes authorized—calling in of judge to preside.** A district judge must not sit or act as such in any criminal action or proceeding when either party makes and files an affidavit, as hereinafter provided, that he has reason to believe, and does believe, he cannot have a fair and impartial hearing or trial before a district judge. Such affidavit may be made by any party to the criminal action, motion or proceeding, personally, or by his attorney or guardian and shall be filed with the clerk of the district court in which the same may be pending, at least

HeinOnline -- 1965 224 1965

fifteen days prior to the trial of said cause, or any retrial thereof after appeal. Upon the filing of the affidavit, the judge, as to whom said disqualification is averred, shall be without authority to act further in the criminal action, motion or proceeding, but the provisions of this section do not apply to the arrangement of the calendar, the regulation of the order of business, the power of transferring the criminal action or proceeding to some other court, nor to the power of calling in another district judge to sit and act in such criminal action or proceeding, providing that no judge shall so arrange the calendar as to defeat the purposes of this section. Not more than one judge can be disqualified in said criminal action or proceeding, at the instance of the prosecution and not more than one judge at the instance of the defendant or defendants.

15 days prior to trial.

Limitation on disqualifications.

If there be more than one judge in any judicial district in which said affidavit is made and filed, another judge residing in the judicial district wherein the affidavit is made and filed must be called in to preside in such criminal action, motion or proceeding; if there be but one judge in the judicial district, then a district judge of another judicial district must be called in to preside in such criminal action, motion or proceeding; when another judge has assumed jurisdiction of a criminal action, motion or proceeding, the clerk of the district court in which the same was pending, shall at once notify the parties or their attorneys of record in the same, either personally or by registered mail, of the name of the judge called in.

More than one judge in district —one judge in district— notification of parties.

If either party in any matter above mentioned shall file the affidavit as herein provided such party may not complain of any reasonable delay as the result thereof.

Delay.

The provisions of this section shall be inapplicable to any person in any cause involving a direct contempt of court."

Exclusion.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved March 1, 1965.

HeinOnline -- 1965 225 1965

CHAPTER 113

An Act to Amend Section 84-1817, R. C. M. 1947, Which Provides for Distribution of State Highway Construction Funds: By Providing That Twenty Percent (20%) of the State Money Available in Any Year Within a Financial District for the Primary System May be Transferred to the Secondary System in That Financial District.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-1817, R. C. M. 1947, is amended to read as follows:

Distribution of state highway construction funds.

"84-1817. **Distribution of state highway construction funds.**

Allotment of state funds for federal aid highway systems.

(1) **Allotment of state construction funds for federal aid highway systems.** At the start of the fiscal year beginning July 1, 1957, and at the beginning of each fiscal year thereafter, the state highway commission shall allot available state construction moneys to the federal aid interstate highway system, the federal aid primary highway system, the federal aid secondary highway system and the federal aid urban highway system in proportion to the amounts necessary to match the respective amounts of federal aid available for expenditure on these systems at the beginning of each fiscal year.

Apportionment of state moneys to federal and primary highway system.

(2) **Apportionment of state construction moneys to the federal aid primary highway system.** At the start of the fiscal year beginning July 1, 1953, and at the beginning of each fiscal year thereafter, the state highway commission shall compute from its records the percentage of incompleted mileage of the federal aid primary highway system within each of said districts which each district respectively bears to the total incompleted mileage of said federal aid primary highway system within this state at that time, and the actual respective percentages of incompleted mileage in each district as so computed and determined at the beginning of each fiscal year shall be used in apportioning construction moneys for that year to each of the said financial districts from the state highway fund as defined and provided by section 84-1816. As a basis for the determination of the amount of incompleted mileage of said federal aid primary highway system in this state for each fiscal year, the state highway commission

Basis for determination of incomplete mileage.

HeinOnline -- 1965 226 1965

shall adopt as the criterion the current definition, as prescribed by the bureau of public roads, for a fully and adequately completed federal highway in this state. This criterion shall be considered as a one hundred per cent (100%) completed federal highway; and federal highway mileage which is only partially completed under the application of this criterion, shall be considered as only partially completed on a percentage basis, this to be determined from the relative estimated percentage costs of construction already performed and of additional construction which must be performed to bring said mileage up to the standard of said criterion.

Apportionment of state moneys to federal aid secondary highway system.

(3) **Apportionment of state construction moneys to the federal aid secondary highway system.** At the start of the fiscal year beginning July 1, 1953, and at the beginning of each fiscal year thereafter, state construction moneys for the federal aid secondary highway system shall be apportioned to each of the financial districts as defined in section 84-1815, on a percentage basis as determined in the following manner: One-fourth (¼) in the ratio of land area in each financial district to the total land area in the state; one-fourth (¼) in the ratio of the rural population in each financial district to the total rural population in the state; and one-fourth (¼) in the ratio of the rural road mileage in each financial district to the total rural road mileage in the state; one-fourth (¼) in the ratio of value of rural lands in each financial district to the total value of rural land in the state. Said moneys to be further apportioned to the counties within each financial district in the same ratio of land area, rural population and rural road mileage; and value of rural lands, provided, that to the extent necessary to permit orderly programming and construction of projects, expenditures of construction money in any county may exceed the amount apportioned to that county with the provision that such excess expenditure shall not exceed three (3) times the amount of the last annual apportionment to that county and that any excess expenditures shall be deducted from future apportionments to that county.

Further apportionment of moneys.

Rural population.

For the purposes of this section, rural population is defined as total population less the population in cities over five thousand (5,000) persons and their unincorporated fringe urban areas as reported in the federal census. Decennial census figures for population shall be adjusted

HeinOnline -- 1965 227 1965

during the interim between censuses in accordance with the percentage of change occurring in annual motor vehicle registration figures for each county.

Rural road mileage.

For the purposes of this section, rural road mileage is defined as all road mileage outside incorporated cities, exclusive of road mileage on the federal aid rural primary highway system. Rural road mileage figures reported by the road inventory of the state highway commission shall be used in determining rural road mileage as defined in this section.

Value of rural lands.

For the purposes of this section, the value of rural lands, shall include the value of state owned lands from which the state derives grazing, timber and agricultural income.

Basis for value of rural lands —state owned lands—privately owned lands.

The basis for the value of rural lands shall be computed from the figures in the latest biennial report of the Montana state board of equalization. The basis for the value of state owned lands shall be computed from the latest figures on the total grazing, timber and agricultural lands in each county, submitted by the commissioner of state lands and investments in his latest biennial report. The average value of privately owned lands shall be the average value of the state owned lands, if the actual values are not available.

Apportionment of state moneys to federal and urban highway system.

(4) **Apportionment of state construction moneys to the federal aid urban highway system.** At the start of the fiscal year beginning July 1, 1953, and at the beginning of each fiscal year thereafter, state construction moneys for the federal aid urban highway system shall be apportioned to the cities in the state over five thousand (5,000) population in the ratio of urban population in each city to the total urban population in the state for all cities over five thousand (5,000) population.

Urban population.

For the purpose of this section, urban population is defined as population within the incorporated limits of cities over five thousand (5,000) population and also the population within unincorporated urban fringe areas as delineated and reported in the federal census.

Expenditures.

To the extent necessary to permit orderly programming and construction of projects, expenditures of construction money in any urban city may exceed the amount apportioned to that city with the provision that such excess

HeinOnline -- 1965 228 1965

expenditures shall be deducted from future apportionments to that city.

Apportionment of state construction moneys to the federal aid interstate highway system.

(5) **Apportionment of state construction moneys to the federal aid interstate highway system.** At the start of the fiscal year beginning July 1, 1957, and at the beginning of each fiscal year thereafter, state construction moneys for the federal aid interstate highway system shall be apportioned to each of the financial districts, as defined in section 84-1815, Revised Codes of Montana, 1947, in proportion to the estimated cost of constructing or reconstructing the system in each district as compared with the total estimated cost of constructing or reconstructing the entire system within the state. The cost estimates to be used for apportioning said state construction funds shall be those costs developed by the state highway commission in accordance with the provisions of subsection (d) of section 108 of title I of the federal aid highway act of 1956.

Cost estimates.

State highway commission may vary expenditures —limitation.

(6) The state highway commission may vary the expenditures made in any financial district under the provisions of this act to the extent of fifteen per cent (15%) above the amount of money allocated to such district in any year for the federal aid primary highway system or the federal aid secondary highway system, and to the extent of one hundred per cent (100%) above the amount of money allocated to such district in any year for the federal aid interstate highway system, provided that the allocation of construction money to such district for the next succeeding fiscal year shall be decreased by an amount equal to such increased expenditures.

State highway commission may transfer funds available for primary system to secondary system —limitation.

(7) The state highway commission may transfer a maximum of twenty per cent (20%) of the state funds available for the primary system in any financial district to the secondary system in that same financial district. Provided, that such transfer is limited to a route that possesses the characteristics for a rural arterial and only when the state highway commission has obtained approval from the bureau of public roads to transfer matching federal primary funds to such route according to the provisions of the federal highway act."

Approved March 1, 1965.

HeinOnline -- 1965 229 1965

CHAPTER 114

An Act Amending Section 93-1906, R. C. M. 1947, Increasing the Annual Salaries of Court Reporters From Six Thousand Six Hundred Dollars ($6,600.00) to Seven Thousand Eight Hundred Dollars ($7,800.00).

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 93-1906, R. C. M. 1947, is amended to read as follows:

Salary and expenses of reporter —apportionment.

"93-1906. **Salary and expenses of reporter—apportionment.** Every reporter appointed under the provisions of this chapter receives an annual salary of *seven thousand eight hundred dollars ($7,800.00)* and no other compensation except as provided in section 93-1904, provided, however, that all transcripts and bills of exceptions required by the county shall be furnished without cost, payable in monthly installments out of the general funds of the counties comprising the district for which he is appointed, according and in proportion to the number of civil and criminal actions entered and commenced in the district courts of such counties respectively in the preceding year; and it shall be the duty of the judge of such district, on the first day of January of each year, or as soon thereafter as may be, to apportion the amount of such salary to be paid by each county in his district on the basis aforesaid. The reporter is allowed, in addition to the salary and fees above provided, in judicial districts comprising more than one (1) county, his actual and necessary expenses of transportation and living when he goes on official business to a county of his judicial district other than the county in which he resides, from the time he leaves his place of residence until he returns thereto, said expenses to be apportioned and payable in the same way as the salary."

$7,800.00.

Exception.

Additional allowance.

Approved March 1, 1965.

CHAPTER 115

An Act Requiring That Seat Belts be Installed in All Automobiles Manufactured or Assembled Commencing With the 1966 Models; Directing the Highway Patrol Supervisor to Establish Specifications and Requirements

HeinOnline -- 1965 230 1965

for Approved Types of Safety Belts and Attachments; and Providing a Penalty.

Be it enacted by the Legislative Assembly of the State of Montana:

Requirement that seat belts be installed in automobiles manufactured, commencing with the 1966 models.

Section 1. It is unlawful for any person to buy, sell, lease, trade or transfer from or to Montana residents at retail an automobile, which is manufactured or assembled commencing with the 1966 models, unless such vehicle is equipped with safety belts installed for use in the left front and right front seats thereof, and no such vehicle shall be operated in this state unless such belts remain installed.

Highway patrol supervisor to approve installation.

Section 2. All such safety belts must be of a type and must be installed in a manner approved by the highway patrol supervisor. The highway patrol supervisor shall establish specifications and requirements for approved types of safety belts and attachments thereto. The highway patrol supervisor will accept, as approved, all seat belt installations and the belt and anchor meeting the society of automotive engineers' specifications.

Violation—penalty.

Section 3. Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined not to exceed one hundred dollars ($100.00).

Approved March 1, 1965.

CHAPTER 116

An Act to Amend Section 93-1301, R. C. M. 1947, by Removing the Maximum Age of Seventy Years From the Qualifications of Persons Otherwise Competent to Act as Jurors; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 93-1301, R. C. M. 1947, be amended to read as follows:

Competent to act as juror—who.

"93-1301. **Who competent to act as juror.** A person is competent to act as a juror if:

1. A citizen of the United States of the age of twenty-one years, who shall have been a resident of the state one

HeinOnline -- 1965 231 1965

year, and of the county ninety days before being selected and returned.

2. In possession of natural faculties, and of ordinary intelligence and not decrepit.

3. Possessed of sufficient knowledge of the English language.

4. Assessed on the last assessment roll of the county on property belonging to him or her."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 1, 1965.

CHAPTER 117

An Act Amending Section 75-3617, R. C. M. 1947, to Provide That an Elementary School Having an ANB of Nine (9) or Less May be Approved as an Isolated School Upon Certain Findings of the County Superintendent of Schools and State Superintendent of Public Instruction, Approved by the Board of School Budget Supervisors; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-3617, R. C. M. 1947, is amended to read as follows:

Application for approval as isolated schools —circumstances to be considered.

"75-3617. **Application for approval as isolated schools —circumstances to be considered in acting upon application.** Before any elementary school having an ANB of nine (9) or less may be approved as an isolated school, and before any high school having an ANB of twenty-four (24) or less may be approved as an isolated high school, the board of trustees of the district wherein said school is located shall, on or before the first day of May in each year, make written application to the budget board for such approval. Such application shall be acted upon on or before the fifteenth day of June, and such application shall be granted if *said budget board shall find and determine that* transportation of the pupils of such school to another school is impractical by reason of the existence of obstacles to travel, such as mountains, rivers, poor

Reasons.

HeinOnline -- 1965 232 1965

roads, distance of pupils' homes from county roads or highways, or the distance of such isolated school from the nearest open school having room and facilities for the pupils of such isolated school*; and an elementary school may also* be approved as an isolated school upon a finding and determination by said budget board, approved by the county superintendent of schools and by the state *superintendent of public instruction of the existence of conditions other than obstacles to travel which would result in unusual hardship to the pupils of such isolated school if they were transported to another school,* and if none of the above-mentioned circumstances exist, such application shall be denied.''

Section 2. This act is effective on its passage and approval. Effective immediately.

Approved March 1, 1965.

CHAPTER 118

An Act Amending Sections 11-2007, 11-2022, 11-2023, 11-2024, 11-2025 and 11-2029, R. C. M. 1947, to Establish a State Pension Plan for Volunteer Firemen; Providing for Funding and Administration of Said Pension Plan; Prescribing Requirements for Participation in Said Pension Plan; Prescribing Method of Filing Claims and Making Pension Payments; Providing for Establishment of Training Programs for Volunteer Firemen to Establish Eligibility Under Said Pension Plan and Providing for Certificates Showing Participation in Such Training Programs; Requiring Copies of Certain Reports to be Made Available to the Chiefs or the Representatives of Volunteer Fire companies; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-2022, R. C. M. 1947, is amended to read as follows: Amending clause.

''11-2022. 1. Every member of a fire company organized in an unincorporated area, town or village under the laws of this state, shall be entitled to receive compensation for disability incurred while in the performance of his duties as such fireman, when such disability necessitates Member of fire company entitled to receive disability compensation —when.

HeinOnline -- 1965 233 1965

Amounts—treatment.

the services of a physician or surgeon, while confined or nonconfined, in the following amounts:

a. If confined to a hospital, the actual cost of hospitalization, and the reasonable charges of a duly licensed physician or surgeon, not to exceed two thousand five hundred dollars ($2,500.00).

b. If not confined to a hospital, the actual reasonable charges of a duly licensed physician or surgeon, not to exceed seven hundred fifty dollars ($750.00).

c. If confined to his home, and such confinement necessitates the services of a nurse, then the actual charges of such nurse, together with actual reasonable charges of a duly licensed physician or surgeon, not to exceed one thousand seven hundred fifty dollars ($1,750.00).

Amputation or loss of bodily member—amount compensable.

"2. Where an injury incurred in line of such duty results in the loss by amputation of an arm, hand, leg or foot, or the enucleation of an eye, or the loss of any of the natural teeth, the board shall order them an artificial member or members be furnished to supply the loss thereof. The expense of furnishing such members shall not exceed the following amounts: Hand or arm to elbow, two hundred fifty dollars ($250.00); arm above elbow, three hundred dollars ($300.00); foot or leg, two hundred fifty dollars ($250.00); eye, twenty-five dollars ($25.00); teeth, one hundred seventy-five dollars ($175.00). The replacement of an artificial member so furnished shall be required every five (5) years, if necessary.

Funeral expenses.

"3. To aid in defraying funeral expenses of a fireman covered under this act whose death occurs in line of duty, an amount not to exceed the sum of two hundred fifty dollars ($250.00) shall be allowed.

Group insurance.

"4. To encourage and aid volunteer fire departments to maintain group insurance for benefits on account of death or injury incurred by members while in the performance of duties as volunteer firemen, the sum of fifty dollars ($50.00) per year for each mobile unit of fire-fighting equipment, not exceeding two (2) such units in number for any such department, shall be paid to each volunteer fire department maintaining such insurance, or to the organization or agency maintaining such insurance for any such volunteer fire department.

HeinOnline -- 1965 234 1965

Volunteer firemen's pension plan—qualifications—amount of pension—maximum.

"5. Every volunteer fireman who shall meet the qualification requirements set forth in subparagraph two (2) of section 11-2023, and who shall complete and file the claim provided for under subparagraph two (2) of section 11-2024, shall be entitled thereafter to participate in the volunteer firemen's pension plan throughout the remainder of his lifetime and to receive payments thereunder computed each year in the following manner. Whenever at the close of business on the last day of any fiscal year there shall be a balance in the volunteer fireman's compensation earmarked revenue account in the earmarked revenue fund in excess of one million dollars ($1,000,000.00) then said excess amount shall be set aside for the payment of pensions to qualified volunteer firemen during the immediately succeeding fiscal year. The amount to be paid to each qualifying volunteer fireman shall be determined by dividing said excess amount by the number of volunteer firemen qualifying to participate in such pension plan at the beginning of such succeeding fiscal year. If such excess amount shall be sufficient to pay each such qualified volunteer fireman at least twenty dollars ($20.00) per month throughout such succeeding fiscal year, then such pension shall be paid monthly, on or before the last day of each month of such succeeding fiscal year; but if said excess amount shall not be sufficient to pay each qualified volunteer fireman at least twenty dollars ($20.00) per month, then each qualified volunteer fireman's full pension for that year shall be paid to him in one lump payment on or before the fifteenth day of December of such year; provided, however, that in any event the total pension payable hereunder to any qualified volunteer fireman shall not exceed the sum of twenty-five dollars ($25.00) per month, and the amount to be set aside hereunder from the volunteer fireman's compensation earmarked revenue account in the earmarked revenue fund at the beginning of any fiscal year for the funding of such pensions shall not in any event exceed the amount necessary to pay such maximum of twenty-five dollars ($25.00) per month to each volunteer fireman qualified as of the beginning of such fiscal year. The fiscal year for the purpose of this act shall begin on the first day of July of each year, and end on the last day of June of each year."

Amending clause.

Section 2. Section 11-2023, R. C. M. 1947, is amended to read as follows:

HeinOnline -- 1965 235 1965

Qualifications—enrolled, active member.

"11-2023. *(1)* In order to qualify for the compensation provided *under sub-paragraphs one (1), two (2), three (3) and four (4) of section 11-2022,* the fireman must be an enrolled active member of a fire company organized under the laws of the state of Montana in an unincorporated town or village, at the time of such injury or sickness for which compensation hereunder is claimed.

"(2) In order to qualify for participation in the volunteer firemen's pension plan under subparagraph five (5) of section 11-2022, a volunteer fireman must meet each of the following requirements:

Requirements.

Years' service.

(A) He must have completed a total of twenty years' service as an active volunteer fireman and as an active member of a qualified volunteer fire company organized under the laws of the state of Montana in an unincorporated area, town or village; provided, that from and after July 1, 1965, no volunteer fireman shall receive credit for any year of membership in any such volunteer fire company unless throughout such year such volunteer fire company shall have maintained fire fighting equipment in serviceable condition of a value of seven hundred fifty dollars ($750.00) or more, and unless throughout such year such volunteer fire company, or the fire district served thereby, shall have been rated in class five (5), six (6), seven (7), eight (8) or nine (9) by the board of fire underwriters for the purpose of fire insurance premium rates; provided, further, that such twenty years of active service shall be cumulative and need not be continuous, and that such service need not be acquired with one single fire company, but may be a total of separate periods of active service with different fire companies organized under the laws of the state of Montana in different fire districts in unincorporated areas, towns or villages. From and after passage of this act, the annual period of service for the purpose of this act shall be the fiscal year; no fractional part of any year shall count toward the twenty-year service requirement, and to receive credit for any particular year a volunteer fireman must serve with one (1) particular volunteer fire company throughout that entire fiscal year;

Equipment—district rating.

Service cumulative—different fire companies—fiscal period.

Age.

(B) He must have attained the age of fifty-five (55) years (But he need not be an active volunteer fireman or an active member of any volunteer fire company at the time of reaching such age); and

HeinOnline -- 1965 236 1965

(C) During each of the twenty (20) years for which he claims credit under subparagraph (A) above, he must have completed a minimum of thirty (30) hours of instruction in matters pertaining to fire fighting, under a program formulated and supervised by the chief of his volunteer fire company. Provided, however, that any volunteer fireman who is an active member of a volunteer fire company organized under the laws of the state of Montana in an unincorporated area, town or village at the time of passage of this act shall receive credit against the said twenty (20) year service requirement to the extent of one (1) year's credit for each two (2) years' service completed or to be completed by him prior to July 1, 1965, as such active member of any such volunteer fire company or companies; for the purpose of this credit for prior service it shall not be necessary either that the volunteer fire company or companies with which such service has been rendered shall satisfy the requirements of subparagraph (A) above, or that the individual volunteer fireman shall during such prior service have satisfied the requirements of subparagraph (C) above; but in any event no more than ten (10) years' credit shall be allowed any such volunteer fireman by reason of such service prior to July 1, 1965. For the purpose of establishing such prior service credit, the chief of each volunteer fire company shall within sixty (60) days after July 1, 1965, prepare and file with the public employees' retirement system of the state of Montana a certificate, subscribed and verified under oath, setting forth the names and residence addresses of each of the members of his volunteer fire company who shall have qualified for one (1) or more years' credit for prior service, and setting forth the number of years of credit to which each thereof shall be entitled."

Instruction.

Credit for service prior to July 1, 1965—requirements.

Limitation.

Certificate.

Section 3. Section 11-2024, R. C. M. 1947, is amended to read as follows:

Amending clause.

"11-2024. *(1)* A fireman claiming compensation *under subparagraphs one (1), two (2), three (3) or four (4), of section 11-2022,* must file his claim with the industrial accident board upon a form to be provided therefor, which claim shall contain the name and address of the claimant, date, place and manner of incurring of disability, name and address of attending physician or surgeon and/or nurse, if any, dates of confinement, if confined, or if not confined, dates of attendance by physician or

Claim for compensation —to contain —filing.

HeinOnline -- 1965 237 1965

surgeon, dates of attendance by nurse; affidavit of attending physician or surgeon as to nature of disability, number and dates of attendance and statement of charges; if confined to hospital, an affidavit of person in charge stating nature of disability, dates of confinement and expenses incurred while so confined; affidavit of chief or secretary of fire company stating that said fire company was duly organized under the laws of Montana in an unincorporated town or village, statement that claimant was, at the date of disability an active enrolled member of such company, and that the disability was incurred in line of duty; an affidavit of the nurse stating the nature of disability, dates of attendance, and statement of charges for services; said claim shall be verified by the claimant, the attending physician or surgeon and nurse, if any, and by the person in charge of the hospital, if confined; said claim shall be filed with the board within one year from date of disability.

Claim under pension plan —to contain —filing.

"(2) A volunteer fireman claiming eligibility under the volunteer firemen's pension plan must file his claim with the public employees' retirement system upon a form to be provided therefor by such board, which claim shall contain the name, address and date of birth of the claimant; the fiscal year for which his eligibility shall commence; the years during which his service as a volunteer fireman was rendered and the name or names of the volunteer fire company or companies with which such service was rendered. Such claim shall be filed on or before the first day of May of any year. The public employees' retirement system may require such proof of age and service as it may deem proper, but the certificates filed or to be filed under section 11-2007 and subparagraph 2 of section 11-2023 shall be accepted by such board as prima facie proof of such service. If such claim be properly filed and such claimant be found by the public employees' retirement system properly qualified to participate in such volunteer firemen's pension plan, then the name of the claimant shall be added to the list of qualified volunteer firemen, and the claimant, shall then be entitled to participate in said volunteer firemen's pension plan as of the fiscal year beginning the first day of July following the filing of such claim."

HeinOnline -- 1965 238 1965

Amending clause.

Section 4. Section 11-2025, R. C. M. 1947, as amended by section 192, chapter 147, of the 1963 Montana session laws, is amended to read as follows:

Receipt of claim by industrial accident board.

"11-2025. *(1)* Upon receipt of a claim *under subparagraphs one (1), two (2), three (3) and four (4), or any thereof, of section 11-2022,* by the industrial accident board, if the same is found to be in compliance with the provisions of *subsection one 1 of* section 11-2024, the board must order the allowance thereof, and pay the same by warrants drawn upon the volunteer firemen's fund to the order of the attending physician or surgeon, attending nurse, and hospital.

Approval of payments under pension fund—provision for widows and children—termination.

"(2) All payments under the volunteer firemen's pension plan shall be approved by the public employees' retirement system and paid by warrants drawn upon the earmarked revenue fund, payable to the order of the individual qualified volunteer fireman; provided, however, that in the event of the death of any such qualified volunteer fireman after the beginning of any fiscal year but before he has received his full pension for that year, and if such deceased volunteer fireman shall have left a widow, or a child or children under the age of eighteen, or both, then any unpaid part of his said pension for said fiscal year shall be paid by a warrant or warrants drawn upon the earmarked revenue fund and payable to the order of said widow, if any, or if none, then to the guardian or other person having custody of the said child or children under the age of eighteen years. If such deceased volunteer fireman shall leave neither widow nor child under the age of eighteen years, then his pension shall terminate at the end of the month prior to the month in which his death occurs; and in any event such pension shall terminate no later than the end of the fiscal year in which death occurs."

Amending clause.

Section 5. Section 11-2029, R. C. M. 1947, is amended to read as follows:

Public employees' retirement system—report to governor—date—contents.

"11-2029. *(1)* The *public employees' retirement system* shall, at the time specified in section 92-842 for making report therein provided, make a report to the governor covering the operations and proceedings for the preceding fiscal year relative to its administration under this act, with such suggestions or recommendations as it may deem of value for public information. *(2) The public*

HeinOnline -- 1965 239 1965

employees' retirement system shall make a report to the governor before October 1 of each year. The report shall contain information on operations and proceedings for the prior fiscal year relative to the administration of the volunteer firemen's pension plan; it shall also contain suggestions and recommendations as it may deem of value for public information. (3) Copies of any such report shall be made available to the chief or other represenative of any volunteer fire company or companies within the state of Montana which shall at any time request the same.''

Amending clause.

Section 6. Section 11-2007, R. C. M. 1947, is amended to read as follows:

Chief of fire department to inquire into cause of fires —duties.

''11-2007. The chief of every fire department must inquire into the cause of every fire occurring in the town of which he is the chief, and keep a record thereof; he must aid in the enforcement of all fire ordinances duly enacted, examine buildings in process of erection, report violations of ordinances relating to prevention or extinguishment of fires, and, when directed by the proper authorities, institute prosecutions therefor, and perform such other duties as may be by proper authority imposed upon him. His compensation, if any, must be fixed and paid by the city or town authorities. He must attend all fires with his badge of office conspicuously displayed, must prevent injury to, take charge of, and preserve all property rescued from fires, and return the same to the owner thereof on the payment of the expenses incurred in saving and keeping the same, the amount thereof, when not agreed to, to be fixed by any justice of the peace.

Compensation.

Plan training program.

Hours per member.

Certificate of qualification under pension plan.

He must devise and formulate or cause to be devised and formulated a course or plan of instruction or training program making available to each regular member of his department not less than thirty (30) hours of instruction per year in matters pertaining to fire fighting, and he must supervise the operation of such plan or program. On or before the first day of September of each year, he must prepare and file with the public employees' retirement system of the state of Montana a certificate, subscribed and verified under oath, stating whether or not his volunteer fire company qualified under the provisions of subparagraph two (2) A of section 11-2023 during the preceding fiscal year, and setting forth the full name and

HeinOnline -- 1965 240 1965

residence address of each member of his department who satisfactorily completed such thirty (30) hours of instruction during said preceding fiscal year, under the provisions of subparagraph two (2) C of section 11-2023. Such verified certificate must be maintained in a permanent file by said public employees' retirement system for the purpose of establishing eligibility for participation in the volunteer firemen's pension plan, and must be open for inspection as a public record.''

Section 7. This act is effective on its passage and approval. Effective immediately.

Approved March 1, 1965.

CHAPTER 119

An Act Relating to the Public Employees' Retirement System and Contracts Between Municipal Corporations, Counties and Public Agencies, and Amending Section 68-301, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 68-301, R. C. M. 1947, is amended to read as follows: Amending clause.

''68-301. After receiving from the board of administration, a quotation of the approximate contribution provided for in section 68-602, any municipal corporation in the state may participate in the public employees' retirement system, making its employees members of said system, by contract entered into between the legislative body of said municipal corporation and the board of administration of the said retirement system, subject to the provisions of this act. Said contract may include any provisions consistent with this act, necessary in the administration of the retirement system as it affects said employees and municipal corporation. The approval and termination of said contract shall be subject to the following provisions, in addition to the other provisions of this act: Public employees' retirement system —participation of municipal corporation —contract. Provisions of contract

(a) Said legislative body shall adopt a resolution giving notice of intention to approve said contract, which resolution shall contain a summary of the major provisions of the proposed retirement system. Such contract shall not Resolution. Election.

HeinOnline -- 1965 241 1965

be approved unless and until an election has been held to permit the employees proposed to be included in the retirement system to express, by secret ballot, their approval or disapproval of said retirement proposal. The ballot at such election shall include the summary of the retirement system as set forth in the foregoing resolution. The election shall be conducted in such manner as to permit the city employees proposed to be included in the system separately to express their approval or disapproval thereof. Said election shall be conducted in such manner as shall be prescribed by the legislative body of the city. Approval of the contract shall be by ordinance adopted by the affirmative vote of two-thirds (2/3) of the members of said legislative body, not less than twenty (20) days after the adoption of said resolution, or by an ordinance adopted by a majority vote of the electorate of the city voting thereon. The legislative body shall not include in the retirement system any of the city employees above mentioned, a majority of whose members voted to disapprove the proposed system.

Ballot.

Approval of contract.

Included under contract.

(b) Said municipal corporation shall include under said contract all of its employees, except as exclusions in addition to the exclusion specified in this act, may be agreed to between it and the board of administration, said exclusions to be based on groups of employees such as by departments, by duties or by age, and not by individual employees. The board of administration, however, shall have the right to disapprove the exclusion of any group, if in its opinion said exclusion affects adversely the interest of said retirement system. Membership in the retirement system shall be compulsory for all employees included under said contract.

Disapproval of exclusion.

Compulsory membership for included members.

Errors in contract —correction.

(c) Errors in said contract may be corrected through amendments approved by the adoption of suitable resolutions by the contracting parties. Excluded employees may be included under said contract, by groups, through amendments to said contract approved in the manner prescribed in this section for the approval of contracts. Additional benefits on account of prior services, provided in this act but not included in said contract, may be included in said contract, through amendments approved in the manner prescribed in this section for the approval of contracts, except that an election among employees shall not be required.

Additional benefits.

HeinOnline -- 1965 242 1965

(d) Any employee who has been in the employment of an incorporated city or town of this state continuously for a period of at least two (2) years, and which incorporated city or town is not participating in the public employees' retirement system of this state, may advise the legislative body of the city or town, in writing, that he wishes to participate in such system. The legislative body shall, within thirty (30) days after receipt of such written request, adopt the resolution of intention and take such other action as provided for in sub-section (a) of this act.''

Request for participation —action.

Approved March 1, 1965.

CHAPTER 120

An Act Providing for the Unit Ownership of Multiple-Unit Buildings, and to Be Cited as the Unit Ownership Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Sections 2 to 42 of this act may be cited as the "unit ownership act."

"Unit ownership act."

Section 2. As used in sections 2 to 42 of this act, unless the context requires otherwise:

(1) "Association of unit owners" means all the unit owners acting as a group in accordance with the declaration and bylaws.

"Association of unit owners."

(2) ''Building'' means a multiple-unit building or buildings comprising a part of the property.

"Building."

(3) "Common elements" means the general common elements and the limited common elements.

"Common elements."

(4) "Common expenses" means:

"Common expenses."

(a) Expenses of administration, maintenance, repair or replacement of the common elements;

(b) Expenses agreed upon as common by all the unit owners; and

(c) Expenses declared common by sections 29 and 31 of this act, or by the declaration or the bylaws of the particular condominium.

HeinOnline -- 1965 243 1965

"Declaration." (5) "Declaration" means the instrument by which the property is submitted to the provisions of sections 2 to 42 of this act.

"General common elements." (6) "General common elements," unless otherwise provided in a declaration or by consent of all the unit owners, means:

(a) The land on which the building is located except any portion thereof included in a unit or made a limited common element by the declaration;

(b) The foundations, columns, girders, beams, supports, mainwalls, roofs, halls, corridors, lobbies, stairs, fire escapes, entrances and exits of the building;

(c) The basements, yards, gardens, parking areas and outside storage spaces;

(d) Installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, waste disposal and incinerating;

(e) The elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use;

(f) The premises for the lodging of janitors or caretakers of the property; and

(g) All other elements of the building necessary or convenient to its existence, maintenance and safety, or normally in common use.

"Limited common elements." (7) "Limited common elements" means those common elements designated in the declaration or by agreement of all the unit owners, as reserved for the use of a certain unit or number of units, to the exclusion of the other units.

"Majority" or "Majority of the unit owners." (8) "Majority" or "Majority of the unit owners," unless otherwise provided in the declaration, means the owners of more than fifty percent (50%) in the aggregate of the undivided ownership interests in the general common elements as the percentage of interest in such element appertaining to each unit is expressed in the declaration. Whenever a percentage of the unit owners is specified, percentage means such percentage in the aggregate of such undivided ownership.

HeinOnline -- 1965 244 1965

"Manager." (9) "Manager" means the manager, board of managers or other person in charge of the administration of or managing, the property.

"Property." (10) "Property" means the land, all buildings, improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, which are submitted to the provisions of sections 2 to 42 of this act.

"Recording officer." (11) "Recording officer" means the county officer charged with the duty of filing and recording deeds and mortgages or any other instruments or documents affecting the title to real property.

"Unit." (12) "Unit" means a part of the property including one or more rooms occupying one or more floors or a part or parts thereof, intended for any type of independent use, and with a direct exit to a public street or highway or to a common area or area leading to a public street or highway.

"Unit designation." (13) "Unit designation" means the number, letter or combination thereof designating a unit in the declaration.

"Unit owner." (14) "Unit owner" means the person owning a unit in fee simple absolute individually or as co-owner in any real estate tenancy relationship recognized under the laws of this state.

Declaration by owner required —recording. Section 3. In order to submit any property to the provisions of sections 2 to 42 of this act, the owner thereof shall record a declaration in the office of the recording officer of the county in which such property is located. The declaration shall be executed in accordance with section 14 of this act and acknowledged by the owner of the property.

Conveyance, encumbrance, and ownership of individual units—recordable interests. Section 4. While the property is submitted to sections 2 to 42 of this act, a unit in the building may be individually conveyed and encumbered and may be the subject of ownership, possession or sale and of all types of juridic acts inter vivos or mortis causa, as if it were sole and entirely independent of the other units in the building of which they form a part, and the corresponding individual titles and interests shall be recordable.

Unit owner entitled to exclusive ownership and possession. Section 5. Each unit owner shall be entitled to the exclusive ownership and possession of his unit.

HeinOnline -- 1965 245 1965

Unit owner entitled to undivided interest in common elements.

Section 6. Each unit owner shall be entitled to an undivided interest in the common elements in the percentage expressed in the declaration. Such percentage shall be in the approximate relation that the value of the unit at the date of the declaration bears to the then combined value of all the units having an interest in the particular common elements. Value need not conform to market value. The percentage of undivided interest of each unit owner in the common elements as expressed in a declaration shall not be altered unless all unit owners having an interest in the particular common element agree thereto and record an amendment to the declaration setting forth the altered percentage of each unit owner having an interest.

Value need not conform to market value.

Undivided interest in common elements shall not be separated from unit—conveyed or encumbered with unit.

Section 7. (1) The undivided interest in the common elements shall not be separated from the unit to which it appertains and shall be conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

Common elements shall remain undivided.

(2) The common elements shall remain undivided and no unit owner shall bring any action for partition or division of any part thereof, except as provided in section 36 of this act. Any covenant to the contrary is void.

Common profits and expenses —distribution.

Section 8. The common profits of the property shall be distributed among, and the common expenses shall be charged to, the unit owners according to the percentage of undivided interest of each in the common elements.

Repairs and alterations by unit owner —limitation.

Section 9. A unit owner shall make no repair or alteration or perform any other work on his unit which would jeopardize the soundness or safety of the property, reduce the value thereof or impair any easement or hereditament unless the consent of all the other unit owners affected is first obtained.

Use of common elements.

Section 10. Each unit owner may use the common elements in accordance with the purposes for which they are intended, but may not hinder or encroach upon the lawful rights of the other unit owners.

Maintenance, repair and replacement of common elements.

Section 11. (1) The necessary work of maintenance, repair and replacement of the common elements and additions or improvements to the common elements shall be carried out only as provided in the bylaws.

HeinOnline -- 1965 246 1965

Association of unit owners—right of access as necessary.

(2) The association of unit owners shall have the right, to be exercised by the manager, to have access to each unit as may be necessary for the maintenance, repair or replacement of the common elements, or to make emergency repairs therein necessary for the public safety or to prevent damage to the common elements or to another unit.

Owner may not exempt himself from liability of common expenses.

Section 12. No unit owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his unit.

Unit owner shall comply with rules, covenants and restrictions—action for failure.

Section 13. Each unit owner shall comply with the bylaws and with the administrative rules and regulations adopted pursuant thereto, and with the covenants, conditions and restrictions in the declaration or in the deed to his unit. Failure to comply therewith shall be grounds for an action maintainable by the association of unit owners or by an aggrieved unit owner.

Declaration shall contain.

Section 14. A declaration shall contain:

(1) A description of the land.

(2) The name by which the property shall be known and a general description of the building, including the number of stories and basements, the number of units and the principal materials of which it is constructed.

(3) The unit designation, location, approximate area of each unit and any other data necessary for proper identification.

(4) A description of the general common elements and the percentage of the interest of each unit owner therein.

(5) A description of the limited common elements, if any, stating to which units their use is reserved and in what percentage.

(6) A statement of the use for which the building and each of the units is intended.

(7) The name of a person to receive service of process in the cases provided in section 38 of this act, and the residence or place of business of such person which shall be within the county in which the property is located.

HeinOnline -- 1965 247 1965

(8) Any other details regarding the property that the person executing the declaration considers desirable.

Preliminary declaration

Section 15. A preliminary declaration, setting forth as many of the particulars required by section 14 of this act as may then be practicable, may be recorded before construction of the building described in the declaration is completed. The preliminary declaration shall not relieve the owner from the necessity of filing the declaration as required by section 14 of this act.

Name of property —not to contain.

Section 16. No property shall bear a name using a word which is the same as, similar to or pronounced the same as, a word in the name of any other property or subdivision in the same county, except for the words "apartment", "motel", "building", "court", "place", or similar words.

Recording of declaration —approval.

Section 17. Before a declaration may be recorded, it must be approved by the county assessor of the county in which the property is located. No declaration shall be approved unless:

(1) The name is proper so as to comply with section 16 of this act; and

(2) All taxes and assessments due and payable have been paid.

Recording.

Section 18. When a declaration is made and approved as required, it shall, upon the payment of the fees provided by law, be recorded by the recording officer. The fact of recording and the date thereof shall be entered thereon. At the time of recording a declaration, the person offering it for record shall also file an exact copy, certified by the recording officer to be a true copy thereof, with the county assessor.

Floor plans —recording.

Section 19. Floor plans of the building described in a declaration shall be recorded simultaneously with the declaration. The floor plans shall show the layout of each unit including the unit designation, location and dimensions of each unit and the common areas to which each has access. There shall be attached to the floor plans a statement of the registered architect or registered professional engineer who prepared the floor plans, certifying that the plans fully and accurately depict the layout of the units and floors of the building and the date construction of the building was completed.

HeinOnline -- 1965 248 1965

Unit owners —bylaws.

Section 20. (1) The unit owners of each property shall adopt bylaws to govern the administration of the property.

Copy—recording.

(2) A copy of the bylaws, certified by the presiding officer and secretary of the association, shall be recorded simultaneously with the declaration of the property to which the bylaws relate.

Amendment of bylaws.

(3) An amendment of the bylaws shall not be effective unless approved by seventy-five percent (75%) of the unit owners and until a copy of the bylaws, as amended, certified by the presiding officer and secretary of the association of unit owners, is recorded.

Bylaws shall provide for.

Section 21. The bylaws shall provide for:

(1) The election from among the unit owners of a board of directors, the number of persons constituting the board, and that the terms of at least one-third (1/3) of the directors shall expire annually; the powers and duties of the board; the compensation, if any, of the directors; the method of removal from office of the directors; and whether or not the board may engage the services of a manager or managing agent.

(2) The method of calling meetings of the unit owners and the percentage, if other than a majority as defined by subsection (8) of section 2 of this act, that shall constitute a quorum.

(3) The election of a chairman, a secretary and a treasurer.

(4) The maintenance, upkeep and repair of the common elements and payment for the expense thereof including the method of approving payment vouchers.

(5) The employment of personnel necessary for the maintenance, upkeep and repair of the common elements.

(6) The manner of collecting from the unit owners their share of the common expenses.

(7) The method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common elements.

(8) Such restrictions on and requirements respecting the use and maintenance of the units and the use of the

HeinOnline -- 1965 249 1965

common elements, not included in the declaration, as are designed to prevent unreasonable interference with the use of their respective units and of the common elements by the several unit owners.

(9) The method of amending the bylaws subject to subsection (3) of section 20 of this act.

Deed of unit to contain.

Section 22. The deed of a unit shall contain:

(1) A description of the land, the name of the property, and the recording index numbers and date of recording of the declaration.

(2) The unit designation of the unit.

(3) The use for which the unit is intended.

(4) The percentages of undivided interest in the common elements appertaining to the unit.

(5) Any further details the grantor and grantee may consider desirable.

First conveyance of unit—mortgage and lien—satisfaction or release.

Section 23. At the time of the first conveyance of each unit following the recording of the declaration, every mortgage and other lien affecting such unit including the undivided interest of the unit in the common elements, shall be paid and satisfied of record, or the unit being conveyed and its interest in the common elements shall be released therefrom by partial release duly recorded.

Subsequent to recording of declaration —liens.

Section 24. (1) Subsequent to recording a declaration and while the property remains subject to sections 2 to 42 of this act, no lien shall arise or be effective against the property. During such period liens or encumbrances shall arise or be created only against each unit and the undivided interest in the common elements appertaining thereto, in the same manner and under the same conditions as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership.

Mechanic's or materialman's lien.

(2) No labor performed or materials furnished with the consent or at the request of a unit owner, his agent, contractor or sub-contractor, shall be the basis for the filing of a mechanic's or materialman's lien against the unit of any other unit owner not consenting to or requesting the labor to be performed or the materials to be

HeinOnline -- 1965 250 1965

furnished, except that consent shall be considered given by the owner of any unit in the case of emergency repairs thereto performed or furnished with the consent or at the request of the manager.

Lien effective against two or more units—right of release.

(3) If a lien becomes effective against two or more units, the owner of each unit subject to such a lien shall have the right to have his unit released from the lien by payment of the amount of the lien attributable to his unit. The amount of the lien attributable to a unit and the payment required to satisfy such a lien, in the absence of agreement, shall be determined by application of the percentage established in the declaration. Such partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce his rights against any unit and the undivided interest in the common element appertaining thereto not so released by payment, satisfaction or discharge.

Records of manager.

Section 25. The manager shall keep detailed accurate records in chronological order, of the receipts and expenditures affecting the common elements, itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for examination by the unit owners at convenient hours of week days.

Services chargeable as common expenses.

Section 26. (1) Whenever an association of unit owners, acting through its manager, furnishes to a unit any services, labor or material lawfully chargeable as common expenses, the association of unit owners, upon complying with subsection (2) of this section, shall have a lien upon the individual unit and the undivided interest in the common elements appertaining to such unit for the reasonable value of such common expenses and the lien shall be prior to all other liens or encumbrances upon the unit except:

(a) Tax and assessment liens, and

(b) A first mortgage or trust indenture of record.

Recording of claim by association of unit owners.

(2) An association of unit owners claiming the benefits of subsection (1) of this section shall record in the county in which the unit or some part thereof is located a claim containing a true statement of the account due for such common expenses after deducting all just credits

HeinOnline -- 1965 251 1965

and offsets; the name of the owner of the unit, or reputed owner, if known; a description of the property where the common expenses were furnished and the designation of the unit, sufficient for identification.

Verified claim.

(3) The claim shall be verified by the oath of some person having knowledge of the facts and shall be filed with and recorded by the recording officer in the book kept for the purpose of recording liens filed under section 45-501. The record shall be indexed as deeds and other conveyances are required by law to be indexed.

Indexed.

Proceedings to foreclose—action for unpaid common expenses.

Section 27. The proceedings to foreclose liens created by section 26 of this act shall conform as nearly as possible to the proceedings to foreclose liens created by section 45-501. The lien may be enforced by the manager acting on behalf of the association of unit owners. An action to recover a money judgment for unpaid common expenses may be maintained without foreclosing or waiving the lien securing the claim for common expenses.

Foreclosure suit—payment required.

Section 28. In any foreclosure suit against a unit, the unit owner shall be required to pay a reasonable rental for the unit, if so provided in the bylaws, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the rent. The manager, acting on behalf of the unit owners, shall have power, unless prohibited by the declaration, to bid in the unit at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.

Title obtained by foreclosure—no liability for prior common expenses.

Section 29. Where the purchaser of a unit obtains title to the unit as a result of foreclosure of the first mortgage or trust indenture, such purchaser, his successors and assigns, shall not be liable for any of the common expenses chargeable to such unit which became due prior to the acquisition of title to such unit by such purchaser. Such unpaid share of common expenses shall be a common expense of all the unit owners including such purchaser, his successors and assigns.

Voluntary conveyance of unit—grantee jointly and severally liable for expenses—exception.

Section 30. In a voluntary conveyance of a unit; the grantee shall be jointly and severally liable with the grantor for all unpaid charges against the latter for his proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the amounts paid by the

HeinOnline -- 1965 252 1965

grantee therefor. However, upon request of a prospective purchaser the manager shall make and deliver a statement of the unpaid charges against the prospective grantor, and the grantee in that case shall not be liable for, nor shall the unit when conveyed be subject to, a lien filed thereafter for any unpaid charges against the grantor in excess of the amount therein set forth.

Manager shall insure the building if required.

Section 31. The manager, as trustee for the unit owners, shall, if required by the declaration, the bylaws or by a majority of the unit owners, insure the building against loss or damage by fire and such other hazards as shall be required, without prejudice to the right of each unit owner to insure his own unit for his own benefit. The premiums for such insurance on the building are common expenses.

Removal of property from provisions of act.

Section 32. (1) All of the unit owners may remove a property from the provisions of sections 2 to 42 of this act by executing and recording an instrument to that effect if the holders of all liens affecting any of the units consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the unidivided interest of the unit owner in the property after removal from the provisions of sections 2 to 42 of this act.

Lien of tax collector.

(2) The tax collector for any taxing unit having a lien, for taxes or assessments, shall have authority to consent to such a transfer of any tax or assessment lien.

90% of unit owners may agree that the property is obsolete— renewal or sale.

Section 33. Ninety percent (90%) of the unit owners may agree that the property is obsolete in whole or in part and whether or not it shall be renewed and restored or sold and the proceeds of sale distributed. If ninety percent (90%) of the unit owners agree to renew and restore the property, the expense thereof shall be paid by all the unit owners as common expenses. If ninety percent (90%) of the unit owners agree to sell the property, the property shall be considered removed from the provisions of sections 2 to 42 of this act.

Damage or destruction of the property.

Section 34. If within sixty days (60) after the date of the damage to or destruction of all or part of the property, the association of unit owners does not decide to repair, reconstruct or rebuild, the property shall be considered removed from the provisions of sections 2 to 42 of this act.

HeinOnline -- 1965 253 1965

Property removed from provisions of act—ownership.

Section 35. If the property is removed from the provisions of sections 2 to 42 of this act, as provided by sections 32, 33 and 34 of this act, the property shall be considered owned in common by all the unit owners. The percentage of undivided interest of each unit owner in the property owned in common shall be the same as the percentage of undivided interest previously owned by such owner in the common elements. Liens affecting any unit shall be liens, in accordance with the then existing priorities, against the undivided interest of the unit owner in the property owned in common.

Liens.

Property removed from provisions of act—partition.

Section 36. If the property is removed from the provisions of sections 2 to 42 of this act, as provided in sections 32, 33 and 34 of this act, it shall be subject to an action for partition at the suit of any unit owner. The net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among the unit owners in proportion to their respective undivided interests after first paying out of the respective shares of the unit owners, to the extent sufficient for the purpose, all liens on the undivided interest in the property owned by each unit owner.

Resubmission.

Section 37. The removal of the property from the provisions of sections 2 to 42 of this act, shall in no way bar its resubmission.

Actions—common elements or more than one unit—service of process—recording officer.

Section 38. Actions may be brought on behalf of two or more of the unit owners, as their respective interests may appear, by the manager with respect to any cause of action relating to the common elements or more than one unit. Service of process on two or more unit owners, in any action relating to the common elements or more than one unit, may be made on the person designated in the declaration to receive service of process or in duplicate on the recording officer of the county in which the declaration is filed. The recording officer shall promptly send a copy of the document served by certified or registered mail to the person designated in the declaration to receive service of process. At the time of service on the recording officer, the serving party shall pay to the recording officer a fee of ten dollars ($10), which shall be a taxable disbursement.

HeinOnline -- 1965 254 1965

Other than person named in declaration to receive service of process—amendment.

Section 39. If the association of unit owners wishes to designate a person other than the one named in the declaration to receive service of process in the cases provided in section 38 of this act, it shall record an amendment to the declaration. The amendment shall be certified by the presiding officer and the secretary of the association of unit owners, and shall state the name of the successor with his residence or place of business as required by subsection (7) of section 14 of this act and that the person named in the amendment was designated by resolution duly adopted by the association of unit owners.

Taxation—each unit shall be considered a parcel of real property—building, common elements excluded.

Section 40. (1) Each unit with its percentage of undivided interest in the common elements shall be considered a parcel of real property subject to separate assessment and taxation by any taxing unit in like manner as other parcels of real property. Neither the building, the property nor any of the common elements shall be considered a parcel for purposes of taxation.

True cash value of unit—determination.

(2) In determining the true cash value of a unit with its undivided interest in the common elements, the county assessor may use the percentage of undivided interest in the common elements appertaining to a unit as expressed in the declaration.

Exemptions.

Section 41. Exemptions from executions and real property taxes apply to the owner of each unit or to the individual units as the case may be.

State board of equalization—rules and regulations.

Section 42. The state board of equalization shall have the authority to make rules and regulations prescribing methods best calculated to secure uniformity according to law in the appraisal and assessment of units constituting part of a property submitted to the provisions of sections 2 to 42 of this act.

Approved March 1, 1965.

CHAPTER 121

An Act Providing for the Disposition of, and Creating, Eliminating, and Adjusting Certain Fees Collected by the State Auditor, Department of Agriculture, State Board of Equalization, State Board of Health, Highway Patrol, Commissioner of State Lands and Invest-

HeinOnline -- 1965 255 1965

ments, Board of Railroad Commissioners, Registrar of Motor Vehicles, and Superintendent of Public Instruction; Amending Sections 3-2411, 3-2410, 3-2466, 3-2301, 3-2417, 3-2313, 3-2312, 69-1910, 84-2402, 84-2404, 84-2405, 84-2406, 84-2407, 69-518, 69-2905, 31-138, 53-420, 81-419, 81-1113, 81-428, 81-426, 8-108, 8-109, 8-110, 53-108, 53-110, 53-112, 53-113, 53-117, 53-122, 53-139, 75-2521, and 75-3503, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 3-2411, R. C. M. 1947, is amended to read as follows:

Temporary permit to operate Babcock test.

"3-2411. **Temporary permit to operate Babcock test.** Any person who shall desire an immediate license to operate the Babcock test before it is reasonably convenient for the department to give the examination provided for in the preceding section, may apply to the department for a temporary permit to operate the Babcock test, stating in his application what training or experience he has had in the use or operation of the same. The department may thereupon in its discretion issue to the applicant a temporary permit to operate the Babcock test, which shall entitle the holder to operate said test pending the giving of the examination prescribed in the preceding section. Application for such temporary permit shall be accompanied with a fee of *five dollars ($5.00)* which shall pay for the first regular Babcock test operator's license thereafter issued to such applicant. If applicant fails in his examination, or discontinues operation of Babcock test before examination can be given, he forfeits fee of *five dollars ($5.00)* paid for such license."

Application—fee.

Forfeiture.

Amending clause.

Section 2. Section 3-2410: R. C. M. 1947, is amended to read as follows:

Babcock test—license and operation.

"3-2410. **Babcock test—license and operation.** The Babcock test is hereby adopted as the official dairy test for use in the state of Montana. No person shall operate the Babcock test in any creamery, cheese factory, or other place where milk or cream is bought and paid for on the basis of its fat content without first passing the examination and securing the license hereinafter provided for. Any person desiring to operate the Babcock test at any of the places enumerated in this section, shall apply to the department of agriculture, labor and industry for

Permission to take examination.

HeinOnline -- 1965 256 1965

permission to take the Babcock test operator's examination. Such examination shall be given to the applicant by the chief of the dairy division of the department, or his representative. Upon passing said examination to the satisfaction of the examining official, the applicant shall be issued a license authorizing him to operate the Babcock test in the state of Montana for a period of one year. A fee of *five dollars ($5.00)* shall be paid for each such original license and a fee of *three dollars ($3.00)* for each renewal thereof. All such licenses shall expire on December 31st of each year."

Passing—license.

Fee.

Section 3. Section 3-2466, R. C. M. 1947, is amended to read as follows:

Amending clause.

"3-2466. **Cream grader, weigher and sampler license and examination.** No person shall grade, weigh or sample any milk or cream used or to be used in the manufacture of butter, cheese or other dairy products in the state of Montana, without first procuring a license as a cream grader, weigher and sampler from the department of agriculture, and passing such examination therefor as may be provided by said department; provided, however, that temporary permits pending the taking of such examination may be issued by the department for a period of not to exceed thirty (30) days. A fee of *five dollars ($5.00)* shall be paid by the applicant for such license or permit and said license shall expire and be renewable on December 31st of each year."

Cream grader, weigher and sampler license and examination.

Fee.

Section 4. Section 3-2301, R. C. M. 1947, is amended to read as follows:

Amending clause.

"3-2301. **Egg dealer's license—fee.** Every person engaged in the business of buying, selling or dealing in eggs, except those persons or firms who do not buy and sell more than an average of 25 cases of eggs per month for any one year, other than those produced by fowls owned by such persons, shall obtain a license from the commissioner of agriculture for each establishment at which said business is conducted, and shall render to the commissioner of agriculture such reports as may be requested by said commissioner. The fee for such license shall be *five dollars ($5.00)* per year for dealers buying eggs for sale at retail. The fee for such license shall be twenty dollars ($20.00) per year for dealers buying eggs for resale at wholesale. All licenses shall be posted in a conspicuous place in each

Egg dealer's license—fee.

Fees.

HeinOnline -- 1965 257 1965

place of business. Licenses shall expire March 31st each year after the date of issuance."

Amending clause.

Section 5. Section 3-2417, R. C. M. 1947, is amended to read as follows:

Licensing of milk and cream buying stations.

"3-2417. **Licensing of milk and cream buying stations.** It shall be unlawful for any person to operate or carry on any milk or cream buying or collection station without first securing from the department an annual license to do so, which said license shall expire on the 31st day of December of each year.

Fees.

The following schedule of fees shall be charged by the department for all such licenses:

All stations handling less than three thousand pounds, (3,000 lbs.) ten dollars ($10.00); all stations handling three thousand pounds (3,000 lbs.) or over per month and less than six thousand pounds (6,000 lbs.) fifteen dollars ($15.00); all stations handling six thousand pounds (6,000 lbs.) or more per month, twenty dollars ($20.00).

Computation of fees.

In computing the annual license to be paid under this section, the highest month's business of such station during the year immediately preceding the application for such license shall determine the amount of the fee."

Amending clause.

Section 6. Section 3-2312, R. C. M. 1947, is amended to read as follows:

Montana state egg seal.

"3-2312. **Montana state egg seal.** The commissioner of agriculture is hereby authorized and it shall be his duty to provide and make available a suitable seal to be known as the Montana state egg seal; and he shall have the power from time to time to establish the price at

Cost.

which said seal shall be sold, but in no case shall the cost of such seal exceed *two dollars ($2.00) per thousand.* The proceeds from the sale of said seals shall be expended by the commissioner of agriculture to assist in defraying salaries and expenses incurred in the enforcement of the provisions of this act."

Amending clause.

Section 7. Section 3-2313, R. C. M. 1947, is amended to read as follows:

Licensed egg graders.

"3-2313. **Licensed egg graders.** All wholesale and retail dealers who handle more than twenty-five (25) cases of eggs per month supplying eggs to consumers must employ only experienced and licensed graders. The

HeinOnline -- 1965 258 1965

fee for grader's license shall be *five dollars ($5.00)* per year. All candlers and graders must pass an examination as required by the commissioner of agriculture. The license shall expire March 31st each year after the date of issuance."

Fee.

Examination.

Section 8. Section 69-1910, R. C. M. 1947, is amended to read as follows:

Amending clause.

"69-1910. **License.** Every person engaging in the keeping or storing of explosives shall pay an annual license fee for each magazine maintained, to be graduated by the state fire marshal according to the quantity kept or stored therein, of not less than *five dollars ($5.00)* nor more than *thirty dollars ($30.00)*. Said license fee shall be payable in advance to the state fire marshal and by him paid to the state treasurer."

Keeping or storing explosives—license—fee.

Section 9. Section 84-2402, R. C. M. 1947, is amended to read as follows:

Amending clause.

"84-2402. **Application and fee for license.** Any person, firm, corporation, association, co-partnership or group desiring to open, establish, operate or maintain a store in the state of Montana prior to September first of that calendar year shall apply to the state board of equalization for license to do so. The application shall be made upon a form which shall be prescribed and furnished by the state board of equalization, and shall set forth the name of the owner, manager, trustee, lessee, stockholders, receiver or other persons desiring said license; the name of such store; the location, including street number; and all such other facts as the state board of equalization may require.

Stores—application and fee for license.

If the applicant desires to open, establish, operate or maintain more than one such store, he shall make a separate application for a license to operate, maintain, open or establish each such store, but the respective stores for which the applicant desires to secure licenses may all be listed upon one (1) application blank.

More than one store—separate application for license.

Each such application shall be accompanied by the license fee as prescribed in sections 84-2405, 84-2406 and 84-2407."

License fee.

Section 10. Section 84-2404, R. C. M. 1947, is amended to read as follows:

Amending clause.

HeinOnline -- 1965 259 1965

Expiration and renewal of licenses.

"84-2404. **Expiration and renewal of licenses.** All licenses shall be so issued so as to expire upon the thirty-first day of December of each calendar year. On or before the first day of January of each year, every firm, person, corporation, association, co-partnership having a license, shall apply to the state board of equalization for a renewal license for the calendar year next ensuing. All applications for a renewal shall be made upon forms which shall be prescribed and furnished by the state board of equalization.

Forms.

License fee.

Each such application for a renewal license shall be accompanied by the license fee as prescribed in sections 84-2405, 84-2406 and 84-2407.

License to lapse —double fee.

No license shall lapse prior to the first day of March next following the year for which the license was issued, and if, by such first day of March, an application for a renewal license has not been made, the fee charged shall be double the rate prescribed in sections 84-2405, 84-2406 and 84-2407."

Amending clause.

Section 11. Section 84-2405, R. C. M. 1947, is amended to read as follows:

Retailers subject to act—license fees for.

"84-2405. **Retailers subject to act—license fees for.** Every person, firm, corporation, association, copartnership or group opening, establishing, operating or maintaining one or more retail stores or mercantile establishments, within this state, under the same general management, supervision or ownership, where a stock of goods is maintained during any portion of the year, regardless of whether said stock is held by ownership, consignment, agency or any other means, shall pay the license fee hereinafter prescribed for the privilege of opening, establishing, operating, or maintaining such stores or mercantile establishments, provided that the members of any group, association or consumer co-operative composed of independent units owning their own business and grouped or associated together by agreement or otherwise for the purpose of purchasing or selling merchandise or service for the mutual benefit of the members shall not be grouped for computing the license fee to be paid by such person, firm, corporation, association, or co-partnership or retailer under this act, but such units or members shall be taxed as individual units; and provided further, that the term 'store' shall not mean or include for the purpose of com-

Mutual benefit.

Store.

HeinOnline -- 1965 260 1965

puting the license fee prescribed in this section the following types of business, but that they shall be licensed under the prescribed fees in section 84-2406: Gasoline filling stations and/or gasoline distributing plants where seventy-five per cent (75%) of the gross business is in petroleum products exclusively; or lumber yards where seventy-five per cent (75%) of the gross business is in building material and hardware exclusively; or grain elevators where seventy-five per cent (75%) of the gross business is dealing in grains and seeds exclusively; and those businesses in which the sale of goods, wares, and merchandise is less than twenty-five per cent (25%) of the gross business.

The license fee herein prescribed shall be paid annually. License fee —annually.

The annual license fees herein prescribed shall be as follows: Fees.

1. Upon one store the annual license fee shall be *six* dollars *($6.00)*.

2. Upon the second store, the annual license fee shall be *fifty-one* dollars *($51.00)*.

3. Upon the third store, the annual license fee shall be one hundred *and one* dollars *($101.00)*.

4. Upon the fourth store, the annual license fee shall be one hundred and fifty *one* dollars *($151.00)*.

5. Upon the fifth store, and on each store in excess of five stores, the annual license fee shall be two hundred *and one* dollars *($201.00)*."

Section 12. Section 84-2406, R. C. M. 1947, is amended to read as follows: Amending clause.

"84-2406. **Annual license fees—who must procure license.** Every person, firm, corporation, association, copartnership or group opening, establishing, operating or maintaining one or more stores or mercantile establishments within this state under the same general management, supervision or ownership, where a stock of goods is maintained during any portion of the year, regardless of whether said stock is held by ownership, consignment, agency or any other means, who deal in petroleum products, building materials, and hardware and grain elevators, and those businesses in which the sale of goods, Annual license fees —who must procure license.

HeinOnline -- 1965 261 1965

Restrictions.

wares and merchandise is less than twenty-five per cent (25%) of the gross business, subject to the following restrictions: Gasoline filling stations and/or gasoline distributing plants where seventy-five per cent (75%) of the gross business is in petroleum products exclusively; those businesses in which the sale of goods, wares and merchandise is less than twenty-five per cent (25%) of the gross business; lumber yards where seventy-five per cent (75%) of the gross business is in building materials and hardware exclusively; grain elevators where seventy-five per cent (75%) of the gross business is in grains and seeds exclusively, shall pay the annual license fee prescribed in this section for the privilege of opening, establishing, operating or maintaining such stores or mercantile establishments, but shall not be required to pay the license fees prescribed in section 84-2405.

License fee —annually.

The annual license fees herein prescribed shall be paid annually.

Fees.

The annual license fees herein prescribed shall be as follows:

1. Upon one store the annual license fee shall be *six dollars ($6.00).*

2. Upon the second store, the annual license fee shall be *eight dollars and fifty cents ($8.50).*

3. Upon the third store, the annual license fee shall be *sixteen dollars ($16.00).*

4. Upon the fourth store, the annual license fee shall be *twenty-three dollars and fifty cents ($23.50).*

5. Upon the fifth store, the annual license fee shall be *thirty-one dollars ($31.00).*

6. Upon the sixth store, and each store in excess of six (6), the annual license fee shall be *thirty-eight dollars and fifty cents ($38.50).*"

Amending clause.

Section 13. Section 84-2407, R. C. M. 1947, is amended to read as follows:

Wholesale store licenses.

"84-2407. **Wholesale store licenses.** Wholesale stores shall be taxed in all cases as individual units at the rate of *thirty-eight dollars and fifty cents ($38.50)* per unit, regardless of ownership; but, whenever goods, wares, and merchandise are sold regularly at both wholesale and

HeinOnline -- 1965 262 1965

retail from one establishment, the operator thereof shall pay the license fee required under section 84-2405 or 84-2406, as the case may be, for the conduct of a retail store, in addition to the wholesale license herein provided for."

Section 14. Section 69-518, R. C. M. 1947, is amended to read as follows: Amending clause.

"69-518. **Fees for copies.** The board shall prescribe *a fee of not less than two dollars ($2.00)* to be paid for certified copies of certificates. Subject to sections 69-521, 69-523 and 69-524, the United States bureau of the census may obtain transcripts, or without payment of fees, certified copies, provided the state is put to no expense in connection therewith." Fees for copies.

Section 15. Section 69-2905, R. C. M. 1947, is amended to read as follows: Amending clause.

"69-2905. **Issuance and renewal of license.** Upon receipt of an application for license and the license fee, the board shall issue a license if the applicant and hospital facilities meet the requirements established under this law. A license, unless sooner suspended or revoked, shall be renewable annually upon *payment of a renewal fee of ten dollars ($10.00) and* filing by the licensee, and approval by the board, of an annual report upon such uniform dates and containing such information in such form as the board prescribed by regulation. Each license shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable except with the written approval of the board. Licenses shall be posted in a conspicuous place on licensed premises." Issuance and renewal of license. Fee.

Section 16. Section 31-138, R. C. M. 1947, is amended to read as follows: Amending clause.

"31-138. **Duplicate certificates.** In the event that an instruction permit or operator's or chauffeur's license issued under the provisions of this act is lost or destroyed, the person to whom the same was issued may, upon the payment of a fee of *one dollar ($1.00),* obtain a duplicate, or substitute thereof, upon furnishing proof satisfactory to the board that such permit or license has been lost or destroyed." Duplicate certificates. Fee.

Section 17. Section 53-420, R. C. M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1965 263 1965

Supervisor to furnish operating record.

"53-420. **Supervisor to furnish operating record.** The supervisor shall upon request furnish any person a certified abstract of the operating record of any person subject to the provisions of this act, which abstract shall also fully designate the motor vehicles, if any registered in the name of such person, and, if there shall be no record of any conviction of such person of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by such person, the supervisor shall so certify. A fee of *one dollar ($1.00)* shall be paid for said certified abstract."

Fee.

Amending clause.

Section 18. Section 81-419, R. C. M. 1947, is amended to read as follows:

Assignment of leases—preferences—fee.

"81-419. **Assignment of leases—preferences—fee.** Leases to state lands may be assigned on blanks provided for that purpose by the state board of land commissioners, but no such assignment shall be binding on the state unless the assignment is filed with the commissioner, approved by him and payment made of the assignment fee of *three dollars ($3.00)*. Preference shall always be given to the applicant who wants the land for his own individual use so that the full advantage coming from the leasing and use of such lands may reach those who actually till the soil, and so that they shall not be compelled to pay a higher rental than that due the state. If a lessee subleases state lands on terms less advantageous to the sublessee than the terms given by the state, his lease shall be subject to cancellation by the state board of land commissioners after hearing, duly held on the facts involved. In any case where state land is subleased by any lessee of state lands, such sublease shall be illegal unless a copy of the sublease *accompanied by a fee of two dollars ($2.00)* has been filed with the state land office and approved by the commissioner."

Fee.

Preference.

Sublease.

Fee.

Amending clause.

Section 19. Section 81-1113, R. C. M. 1947, is amended to read as follows:

Fees.

"81-1113. **Fees.** The commissioner of state lands and investments is hereby authorized and empowered and it is hereby made his duty to charge and collect the following fees:

Issuing miner's prospecting permit—ten dollars ($10.00) for each permit, or such greater fee as the board may fix in each case.

HeinOnline -- 1965 264 1965

Issuing any other permit—one dollar ($1.00).

Issuing any lease with or without bond—two dollars and fifty cents ($2.50).

Issuing any certificate of purchase or lieu certificate or converted certificate or purchase contract—five dollars ($5.00).

Approving and entering assignment of lease or certificate of purchase—*three dollars ($3.00).*

Deed for right-of-way easement or other easement—five dollars ($5.00).

Patent to any land sold—five dollars ($5.00).

Certified copy of any of the instruments above enumerated, one-half the fee required for issuing the original instrument.

Making township plats showing the state lands therein and giving other information, such fee as the board may fix to be graduated according to the amount of work required.

Certified copy of any other instrument than those above enumerated or of the records of his office shall be furnished at the rate of twenty cents (.20) per folio of one hundred (100) words and one dollar ($1.00) for the certificate.

The board shall fix the fees to be charged and collected for specific services by the commissioner not enumerated in this section."

Specific services not enumerated.

Section 20. Section 81-428, R. C. M. 1947, is amended to read as follows:

Amending clause.

"81-428. **Proof of termination of lease or pledge to be filed—fee.** The lessee of any grazing or agricultural lease of or leasehold interest in state lands which has been pledged or mortgaged as herein provided shall, within thirty (30) days after payment of the indebtedness secured thereby, or within thirty (30) days after the pledge agreement has been terminated or the leasehold interest has been released from the mortgage, file with the state board of land commissioners due proof of said fact and pay to said board a fee of *two dollars ($2.00)* for said filing."

Proof of termination of lease of pledge to be filed—fee.

Fee.

HeinOnline -- 1965 265 1965

Amending clause.

Section 21. Section 81-426, R. C. M. 1947, is amended to read as follows:

Filing with state required—fee.

"81-426. **Filing with state required—fee.** The pledgee of such lease or the mortgagee of such leasehold interest shall, within thirty (30) days after receipt of said pledge agreement or mortgage, file the same, or a certified copy thereof, in the office of the state board of land commissioners, and shall pay to said board a fee of *two dollars ($2.00)* for the filing thereof."

Fee.

Amending clause.

Section 22. Section 8-108, R. C. M. 1947, is amended to read as follows:

Certificate required of Class A motor carriers —contents of application—fee.

"8-108. **Certificate required of class A motor carriers —contents of application—fee.** (a) No class A motor carrier, as in this act defined, shall hereafter operate for the transportation of persons and/or property for hire on any public highway in this state without first having obtained from the board, under the provisions of this act, a certificate declaring that public convenience and necessity require such operation.

(b) A motor carrier making application for such certificate shall do so in writing, separately for each route, which petition shall be verified by the applicant and shall specify the following matters:

1. The name and address of the applicant and the names and addresses of its officers, if any.

2. The public highway or highways over which, and the fixed termini between which, or the regular route or routes over which it intends to operate.

3. The kind of transportation, whether passenger or freight, or both, together with a full and complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle to be used for passenger traffic and the tonnage capacity of any vehicle to be used in freight traffic.

4. The proposed time schedule.

5. A schedule of the tariff or rates desired to be charged for the transportation of freight and/or passengers.

6. A complete and detailed description of the property proposed to be devoted to the public serivce.

HeinOnline -- 1965 266 1965

7. A detailed statement showing the assets and liabilities of such applicant.

8. And such other or additional information as the board may by order require.

(c) Such application shall be accompanied by a filing fee of fifteen dollars ($15.00) *to thirty-five dollars ($35.00) to be set by the board based on the number of counties for which the certificate is requested.*" Fee.

Section 23. Section 8-109, R. C. M. 1947, is amended to read as follows: Amending clause.

"8-109. **Certificate required of class B motor carriers —contents of application—fee.** (a) No class B motor carrier, as in this act defined, shall hereafter operate for the transportation of persons and/or property for hire on any public highway, in this state, without first having obtained from the board, under the provisions of this act, a certificate that public convenience and necessity require such operations. Certificate required of Class B motor carriers —contents of application—fee.

(b) A motor carrier making application for such permit shall do so in writing, separately for each locality for which consideration is desired, which petition shall be verified and shall specify the following matters:

1. Name and address of the applicant and the names and addresses of its officers, if any.

2. The kind of transportation, whether passenger or freight, or both, together with a full and complete description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle to be used for passenger traffic and the tonnage capacity of any vehicle to be used in freight traffic.

3. The locality and character of operations to be conducted.

4. A schedule of the tariff of rates desired to be charged for the transportation of freight and/or passengers.

5. A complete and detailed description of the property proposed to be devoted to the public service.

6. A detailed statement showing the assets and liabilities of such applicant.

7. And such other or additional information as the board may by order require.

HeinOnline -- 1965 267 1965

Fee.

(c) Such application shall be accompanied by a filing fee of fifteen dollars ($15.00) *to thirty-five dollars ($35.00) to be set by the board based on the number of counties for which the certificate is requested.''*

Amending clause.

Section 24. Section 8-110, R. C. M. 1947, is amended to read as follows:

Certificate required of Class C motor carriers —contents of application—fee.

''8-110. **Certificate required of class C motor carriers —contents of application—fee.** (a) No class C motor carrier as in this act defined, shall hereafter operate for the distribution, delivery, or collection of goods, wares, merchandise, or commodities, or for the transportation of persons on any public highway in this state, without first having obtained from the board, under the provisions of this act, a certificate that public convenience and necessity require such operation.

(b) A motor carrier making application for such permit shall do so in writing, separately for each route or locality for which consideration is desired, which petition shall be verified by the applicant and shall specify the following matters:

1. The name and address of the applicant and the names and addresses of its officers, if any.

2. The public highways or highways over which and the fixed termini between which, or the route or routes over which it intends to operate, if the same are fixed; or the particular city, town, station, or locality from and/or to which the applicant intends to operate.

3. The kind of transportation, the character of the goods, wares, merchandise, or commodities to be distributed, delivered or collected, together with a full and complete description of the character of the vehicle or vehicles, including the rated tonnage capacity of such vehicles, to be used in such service of distribution, delivery or collection.

4. And such other or additional information as the board may by order require.

Fee.

(c) Such application shall be accompanied by a fee of fifteen dollars ($15.00) *to thirty-five dollars ($35.00) to be set by the board based on the number of counties for which the certificate is requested.''*

HeinOnline -- 1965 268 1965

Section 25. Section 53-108, R. C. M. 1947, is amended to read as follows: Amending clause.

"53-108. **Renewal of registration.** Every vehicle registration under this act shall expire on December thirty-first of each year and shall be renewed annually upon application and payment of license fees, as provided in sections 53-114 and 53-122, such renewal to take effect on the first day of January of each year. The certificate of registration issued hereunder shall be valid during the registration year only for which issued, and the certificates of ownership shall remain valid until canceled by the registrar of motor vehicles upon a transfer of any interest shown therein and need not be renewed annually. Upon annual renewal, whenever the legal owner of the vehicle is other than the registered owner, the registrar of motor vehicles shall immediately notify such legal owner by mail of the registration number assigned to such vehicle for the ensuing year. Renewal of registration. Certificate. Annual renewal.

The owner of a vehicle registered under the provisions of this act shall be entitled to operate such vehicle between January first and February fifteenth without displaying the registration certificate of the current year, on condition that such owner shall, during said period, display upon such vehicle the number plates or plate assigned thereto for the previous year. Operation between January 1st and February 15th.

Any purchaser of a motor vehicle from a duly licensed motor vehicle dealer which has not been registered or re-registered for the current year may during the time of (the) certificate of ownership thereto is in the process of being transferred in the office of the registrar of motor vehicles, upon making an affidavit to that effect upon a form prescribed by the registrar of motor vehicles and upon the payment of a fee of *two dollars ($2.00)* to be collected by the county treasurer and remitted to the *registrar of motor vehicles,* obtain from the county treasurer of the county in which said vehicle is subject to tax a temporary windshield sticker of such size, color and design as the *registrar of motor vehicles* may prescribe, to be validated by the county treasurer for a period of thirty (30) days from the date of issuance, and such purchaser, upon displaying such sticker on the lower right-hand corner of the windshield of such motor vehicle and upon displaying the number plates or plate assigned thereto for the previous year (unless the seller has been unable Purchaser. Fee. Temporary windshield sticker.

HeinOnline -- 1965 269 1965

to deliver such previous year's plate or plates) shall be entitled to operate such vehicle during the period for which such windshield sticker has been validated without displaying the registration certificate or number plates or plate for the current year. Provided, however, the county treasurer shall not sell, or no person shall purchase more than one (1) thirty (30) day temporary windshield sticker for any vehicle, the ownership of which has not changed since the issuance of the previous thirty (30) day windshield sticker. Provided, further, however, that any purchaser of a new motor vehicle from a duly licensed motor vehicle dealer shall have the grace period of three (3) days from the date of purchase to make such application for registration and obtain registration plates, and it shall not be a violation of this chapter or any other law for such purchaser to operate such new motor vehicle upon the streets and highways of this state without a certificate of registration and registration plates during the said three-day period; providing further that such purchaser must have in his possession a valid bill of sale or other satisfactory evidence of ownership."

Limitation.

Grace period.

Amending clause.

Section 26. Section 53-110, R. C. M. 1947, is amended to read as follows:

Filing of liens, rights, procedure, fees.

"53-110. **Filing of liens, rights, procedure, fees.** (a) No chattel mortgage, conditional sales contract, lease or other lien on a motor vehicle shall be valid as against creditors, subsequent purchasers or encumbrancers unless and until such mortgage, conditional sales contract, lease or other lien, or a true copy thereof certified by a notary public has been filed with the registrar of motor vehicles as hereinafter provided; the registrar shall not file any mortgage, conditional sales contract, lease or other lien unless such mortgage, conditional sales contract, lease or other lien is accompanied by the certificate of ownership of such vehicle, except in the sale of a new motor vehicle by a duly licensed dealer, and when such mortgage, conditional sales contract, lease or other lien or certified copy thereof is so presented for filing the registrar shall file the same entering upon his records the name and address of the mortgagee, conditional sales vendor, lessor, or other lienor together with the amount of the lien and he shall at the same time endorse the same information upon the face of the certificate of ownership, mailing a statement certifying to the filing of such mortgage, conditional sales

HeinOnline -- 1965 270 1965

contract, lease or other lien, to the mortgagee, vendor, or other lienor and mail the certificate of ownership to the owner at the address given on said certificate. The owner being the person entitled to operate and possess such motor vehicle.

Satisfaction of statement of release.

(b) Satisfactions or statements of release filed with the registrar of motor vehicles under this act shall be retained by him for a period of eight (8) years after receipt, after which they may be destroyed. Chattel mortgages, conditional sales contracts, leases, or other liens filed with the registrar, and all renewals and assignments thereof, shall be retained by him for a period of eight (8) years after the maturity date stated in such mortgage, conditional sales contract, lease, or other lien, or renewal, or if no maturity date is therein stated, for a period of thirteen (13) years after receipt, after which they may be destroyed.

Notice.

(c) From and after the filing of any mortgage, conditional sales contract, lease, or other lien, or copy thereof on any motor vehicle, as herein provided, then and in that event such mortgage, conditional sales contract, lease or other lien shall be constructive notice of the said mortgage, conditional sales contract, lease or other lien and its contents to subsequent purchasers and encumbrancers.

Default.

(d) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle the mortgagee or vendor has the same remedies as in the case of other personal property, except that the remedy of seizure prescribed by section 52-312 shall be available upon delivery to the sheriff of the original instrument or a copy certified by the registrar of motor vehicles and such undertaking as may be required by the sheriff. In case of attachment of motor vehicles all the provisions of section 93-4338 shall be applicable except that deposits must be made with the registrar of motor vehicles.

Failure to file satisfaction.

(e) In the event any conditional sales vendor or assignee or chattel mortgagee or assignee fails to file a satisfaction of a chattel mortgage, assignment or conditional sales contract within fifteen days after receiving final payment on such mortgage, assignment, or conditional sales contract he shall be required to pay the registrar of motor vehicles the sum of one dollar ($1.00) for each and every day thereafter that he fails to file such satisfaction.

HeinOnline -- 1965 271 1965

Receipt of notice of lien.

(f) Upon receipt of any liens, or notice of liens dependent on possession, or attachments, etc., against the record of any motor vehicle registered in this state, the registrar shall within 24 hours, mail to the owner, conditional sale vendor, mortgagees, or assignees of any thereof a notice showing the name and address of the lien claimant, amount of the lien, date of execution of lien, and in the case of attachment the full title of the court and the action and the name of the attorneys for the plaintiff and/or attaching creditor.

Not necessary to refile.

(g) It shall not be necessary to refile with the registrar of motor vehicles any instruments on file in the offices of the county clerks and recorders at the time this law takes effect.

Fee.

(h) A fee of *two dollars ($2.00)* shall be paid to the registrar of motor vehicles upon and for filing any lien or lien instrument against any motor vehicle, and said fee of *two dollars ($2.00)* shall further include and cover the cost of filing a satisfaction or release of the lien or lien instrument, and, also, the cost of endorsing such satisfaction or release on the face of the certificate of ownership or on the records of the registrar, or both. A fee of *two dollars ($2.00)* shall be paid the registrar of motor vehicles for issuing a certified copy of a chattel mortgage, conditional sales contract or other lien, or instrument of encumbrance on file in the office of the registrar, or for filing any assignment of any instrument on file with the registrar. *All fees provided for in this section shall be deposited by the registrar in the earmarked revenue fund."*

Amending clause.

Section 27. Section 53-112, R. C. M. 1947, is amended to read as follows:

Fee for original certificate of ownership and transfer of title.

"53-112. **Fee for original certificate of ownership and transfer of title.** A charge of *two dollars ($2.00)* shall be made for issuance of an original certificate of ownership of title *and for a transfer of registration* which shall be collected by the county treasurer. *The fees shall be distributed as follows:*

Fees—distribution.

(a) One dollar ($1.00) *of each fee* shall be remitted to the registrar of motor vehicles by the county treasurer with each application for *original certificate of ownership or transfer of* registration.

HeinOnline -- 1965 272 1965

(b) Prior to March 1, 1966 and each March thereafter, the county commissioners of each county shall divide the fees retained by the county to

(i) the city road fund of each city and town within the county based on the number of motor vehicles registered inside the corporate limits of each city or town, and

(ii) the county road fund based on the number of motor vehicles registered outside the corporate limits of cities and towns."

Section 28. Section 53-113, R. C. M. 1947, is amended to read as follows: Amending clause.

"53-113. **Lost certificates.** In the event any certificate of registration or ownership shall be lost, mutilated or become illegible, the persons to whom the same shall have been issued shall immediately make application for and may obtain a duplicate thereof, upon furnishing satisfactory information to the registrar of such facts and upon payment of a fee of *two dollars ($2.00).*" Lost certificates. Fee.

Section 29. Section 53-117, R. C. M. 1947, is amended to read as follows: Amending clause.

"53-117. **Disposition of taxes.** The county treasurer shall credit all taxes on motor vehicles so collected to a motor vehicle suspense fund and, at some time between March 1 and March 10 of each year, and every sixty (60) days thereafter, the county treasurer shall distribute the same in relative proportions required by the levies for state, county, school district and municipal purposes in the same manner as other personal property taxes are distributed." Disposition of taxes.

Section 30. Section 53-122, R. C. M. 1947, is amended to read as follows: Amending clause.

"53-122. **Registration fees of motor vehicles—fees—disposal of proceeds—fee for half year—dealers' registration and transfer thereof—public owned vehicles exempt from license or registration fees—license or registration fees for trailers, house trailers, semi-trailers and tractors providing for** *disposition* **of all fees.** Registration or license fees shall be paid upon registration or reregistration of motor vehicles, trailers, house trailers, semitrailers and dealers in motor vehicles or trailers in accordance with this act, as follows: Registration fees of motor vehicles —fees—disposal of proceeds—fee for half year—dealer's registration—public owned vehicles —trailers.

HeinOnline -- 1965 273 1965

Dealers—other than motorcycles.

Dealers in motor vehicles other than motorcycles, a minimum fee of thirty dollars ($30.00) which shall entitle such dealer to two (2) sets of number plates, and five dollars ($5.00) additional fee for each additional set of number plates up to six (6) sets, and two dollars ($2.00) additional fee for each additional set of number plates, as may be applied for by such dealer; provided, that each dealer be required to furnish the registrar of motor vehicles a statement showing the makes of motor vehicles handled by him, and the total number of each make sold by him during the preceding year, and that he not be issued a license unless he so conforms;

Dealers—motorcycles—trailers.

Dealers in motorcycles, trailers including house trailers, fifteen dollars ($15.00);

Motor vehicles.

Motor vehicles, weighing twenty-eight hundred and fifty (2850) pounds, or under, other than motor trucks, five dollars ($5.00);

Motor vehicles, weighing over twenty-eight hundred and fifty (2850) pounds, other than motor trucks ten dollars ($10.00);

Electrically driven passenger vehicles.

Electrically driven passenger vehicles, ten dollars ($10.00);

Motorcycles.

All motorcycles, two dollars ($2.00);

Tractors-trucks.

Tractors and/or trucks, ten dollars ($10.00);

Buses.

Buses shall be classed as motor trucks and licensed accordingly;

Trailers.

Trailers and semitrailers less than two thousand five hundred (2,500) pounds maximum gross loaded weight and house trailers of all weights, two dollars ($2.00);

Trailers and semitrailers over two thousand five hundred (2,500) up to six thousand (6,000) pounds maximum gross loaded weight, except house trailers, five dollars ($5.00);

Trailers and semitrailers over six thousand (6,000) pounds maximum gross loaded weight, ten dollars ($10.00);

Trailers used exclusively in the transportation of logs in the forest or in the transportation of oil and gas well machinery, road machinery and bridge material exclusively, new and secondhand, and trailers used exclusively for the transportation of road machinery and bridge

HeinOnline -- 1965 274 1965

materials, shall pay a fee of fifteen dollars ($15.00) annually, regardless of size or capacity.

All rates to be twenty-five per cent (25%) higher for motor vehicles, trailers and semitrailers, when not equipped with pneumatic tires. Pneumatic tires—rates.

Bicycles with motor attachment, one dollar ($1.00); Motor bicycle.

Tractors, as specified in this section, shall mean any motor vehicle, except passenger cars used for towing a trailer or semitrailer. Tractors.

All license or registration fees collected by the county treasurer of the county in which any motor vehicle is registered shall be credited to the motor vehicle license fund of said county. The funds in said county motor vehicle fund shall be used as follows: Fees. Funds—use.

(a) Fifty per cent (50%) of the net license fees derived from the registration of motor vehicles, the owners of which reside within the boundaries of any incorporated city of the state of Montana, having a population of thirty-five thousand (35,000) or more, or the owners of which reside within the boundaries of any incorporated city of the state of Montana which lies within one (1) mile of the city limits of an incorporated city of the state of Montana having a population of thirty-five thousand (35,000) or more, according to the federal census of 1930, and twenty-five per cent (25%) of the net license fees derived from the registration of motor vehicles, the owners of which reside within the boundaries of any city in the state of Montana having a population of ten thousand (10,000) or more, according to the federal census of 1950, and which city is situated in a county which has an area of less than seven hundred and fifty (750) square miles, shall be held by the county treasurer and segregated from other county road funds and designated as 'city road fund', to be used in the city from which fees were derived for the construction of permanent streets within the incorporated limits of such city.

(b) The license fees held in the city road fund, as hereinbefore provided, at the end of each thirty (30) day period beginning March 1, 1955, be paid by the county treasurer to the city treasurer to be held by such city treasurer in a separate fund designated as the 'city road fund,' shall be used by the city council of such city having

HeinOnline -- 1965 275 1965

the population of thirty-five thousand (35,000) or more, or by the city council of such city which lies within one (1) mile of the city limits of an incorporated city of the state of Montana, having a population of thirty-five thousand (35,000) or more, according to the federal census of 1930, or by the city council of such city having a population of ten thousand (10,000), or more, according to the federal census of 1950 and situated in a county which has an area of less than seven hundred and fifty (750) square miles, only for the construction of permanent highways and streets within the boundaries of such incorporated city. Provided, that all construction of public highways and streets, the cost of which is to be paid out of the fund derived from the license fees as herein provided, shall be under the supervision of the county surveyor of the county within whose boundaries such city is situated, subject to the control of the said city council and surveyor to designate the public highway or street upon which the work is to be done, and the type of pavement to be used, and provided further, that the cost of the supervision of the county surveyor shall not exceed five per cent (5%) of the cost of said work.

(c) In every county which does not have within its borders a city and area coming within the provisions of subsections (a) and (b) above, the net license fee derived from the registration of motor vehicles shall be by the registrar of motor vehicles transmitted to, and paid over to the county treasurer of each such county and shall be allocated and divided by the county treasurer as hereinafter provided. The motor vehicle license fund in each such county shall be divided between accounts designated as 'city road fund' and 'county road fund' in a pro rata manner based upon the total number of miles of all public streets and highways situated within the limits of incorporated cities and towns within each county as compared with the total number of miles of public streets and highways situated within the county, but outside the corporate limits of any incorporated cities and towns.

The license fees held in the city road fund, as hereinabove provided shall be at the end of each thirty (30) day period beginning March 1, 1964, be paid by the county treasurer to the treasurer of each incorporated city or town within the county in a pro rata manner based upon the number of miles of all public streets and highways situated

HeinOnline -- 1965 276 1965

within such city or town as compared to the total number of miles of all public streets and highways within the limits of all incorporated cities and towns within the county. The city or town treasurer shall hold said moneys in a separate fund designated as the 'city road fund' which shall be used by the city or town council only for the construction and repair of streets and highways within the corporate limits of such incorporated city or town.

The net license fees derived from the registration of vehicles shall be used by said county for the construction, repair and maintenance of all public highways, except state and federal highways, within the boundaries of said county.

If any dealer, or motor vehicle, house trailer, trailer, or semitrailer is originally registered six (6) months after the time of registration as set by law, the registration or license fee for the remainder of such year shall be one-half (½) of the regular fee above given.

A dealer in motor vehicles or trailers who shall maintain more than one (1) place of business or who shall maintain any branch establishment or establishments, must register and pay a registration or license fee for each such place of business or establishment.

A registered dealer, who may sell or dispose of his entire business to any other person, may have his certificate of registration transferred to such purchaser upon filing with the registrar of motor vehicles a statement containing the name of the registered dealer, the number under which such dealer is registered, the name of the purchaser, and the location of the place of business so sold. Upon the filing of such statement, accompanied by a filing fee of *two dollars ($2.00),* the registrar of motor vehicles shall note upon the registration record of such dealer the change of ownership. But no certificate of registration can be transferred unless the entire business of the dealer holding such certificate of registration be sold and disposed of, and no such certificate of registration can be transferred to any person other than the purchasers of such business. Fee.

The provisions of this act with respect to the payment of registration fees shall not apply to or be binding upon motor vehicles, trailers or semitrailers or tractors owned or controlled by the United States of America or any

HeinOnline -- 1965 277 1965

state, county or city, but in all other respects the provisions of this act shall be applicable to and binding upon motor vehicles, tractors, trailers, and semitrailers.

All fees, other than license fees, *unless otherwise specifically provided,* shall hereafter be deposited in, and paid into, the earmarked revenue fund and shall be used to pay all salaries, operating expenses, and all other expenses of the department of the registrar of motor vehicles, *including the manufacture and delivery of license plates.* Any reference in this code to the motor vehicle recording fund or the motor vehicle administration fund shall be taken to mean the motor vehicle recording account in the earmarked revenue fund.

The board of county commissioners of each county which does not have within its borders a city and area coming within the provisions of subsections (a) and (b) above shall prior to March 1 of each year, beginning with the year 1964, determine the number of miles of public streets and highways situated in each incorporated city and town in the county, and the number of miles of public streets and highways within the county, but outside the corporate limits of the incorporated cities and towns, in order that the motor vehicle license and registration fees can be divided between the 'county road fund' and each 'city road fund' in the pro rata manner as provided in this act. The board of county commissioners shall at the same time also compute the percentage of said motor vehicle license and registration fees to be paid by the county treasurer to the treasurer of each incorporated city and town and also the percentage to be deposited in the county road fund.''

Amending clause.

Section 31. Section 53-139, R. C. M. 1947, is amended to read as follows:

Penalty for sale of vehicle with engine number altered—application for special number.

''53-139. **Penalty for sale of vehicle with engine number altered or changed—application for special number.** (1) Any person or persons, firm or corporation, who, thirty days after the taking effect of this section, shall sell or offer for sale in this state a vehicle, the original engine number of which has been destroyed, removed, altered, covered or defaced, with the exception of electrically propelled vehicles shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than two hundred dollars, nor more

HeinOnline -- 1965 278 1965

than five hundred dollars, and by imprisonment in the county jail for a term of not less than thirty days nor more than one hundred and eighty days, and upon a second or subsequent conviction under this section, the punishment shall be imprisonment in the state prison for a term of not less than one year nor more than five years: Provided, however, that any person or persons, firm or corporation, being the owner or custodian of or having possession of a vehicle at the time of the taking effect of this article, the original engine number of which has been previously destroyed, removed, altered or defaced, shall before the expiration of thirty days after the taking effect of this article apply to the registrar of motor vehicles on a blank to be prepared and furnished by the registrar of motor vehicles upon request, for permission to make or stamp, or cause to be made or stamped on the engine of such vehicle, a special engine number.

Application for special engine number—to contain.

(2) The application for permission to make or stamp a special engine number on the engine of a vehicle under the provisions of this article shall contain a description of such vehicle including the make, style and year of model of the same, as complete a description of the original engine number, if any part of the same remain, as is possible to give, any distinguishing marks that may be on the engine or body of such vehicle and the name and post-office address of the applicant, the date on which he purchased or procured possession of the same, the name and post-office address of the person or persons from whom he purchased such vehicle, and such information as the registrar of motor vehicles may require, all of which description and facts shall be sworn to by said applicant before a notary public or other person authorized in this state to administer oaths or take acknowledgments.

Application—fee.

(3) Upon receipt of such application, together with a fee of *two dollars ($2.00),* the registrar of motor vehicles shall issue to said applicant written permission to make or stamp on the engine of such vehicle a special engine number to be designated by the registrar of motor vehicles, and when such special engine number so designated has been stamped or otherwise placed on the engine of such motor vehicle it shall become and thereafter be the lawful engine number of such vehicle, for the purpose of identification and registration and for all other purposes under the provisions of this chapter, and the owner thereof may

HeinOnline -- 1965 279 1965

sell or transfer the same under said special engine number so designated by the registrar of motor vehicles; and any person or persons who shall destroy, remove, cover, alter or deface any special engine number so designated by the registrar of motor vehicles shall be deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison for a term of not less than two years nor more than ten years.

Special engine numbers—designation.

(4) In designating special engine numbers for motor vehicles under the provisions of this chapter the registrar of motor vehicles shall designate and number the same consecutively, beginning with the number (1), preceded by the letters S.N. and followed by the letters for each and every make of motor vehicle for which a special application engine number shall be made, and in the order of the filing of application therefor: Provided, that from and after the taking effect of this section, the registrar of motor vehicles shall not register any vehicle without an engine number or issue a license for the operation of the same except as specifically provided for herein; and further, before issuing said license the registrar of motor vehicles shall require of the applicant a statement that the special number assigned to be placed on the particular vehicle in question has been put on in a workmanlike manner, and this statement shall be certified to by the sheriff, chief of police, or other convenient peace officer, that he has inspected said vehicle and found said number to be on said motor vehicle as required by the registrar of motor vehicles. Nothing herein shall be construed to prevent any manufacturer or importer, or their agents other than dealers, from doing his own numbering on motor vehicles or parts removed or changed and replacing the numbered parts."

Amending clause.

Section 32. Section 75-2521, R. C. M. 1947, is amended to read as follows:

Fees for teaching certificates.

"75-2521. **Fees for certificates for teaching.** For the issuance, renewal or extension of a certificate to teach, each applicant for such certificate shall pay a fee of *two dollars ($2.00)* for each year that the certificate is in force. Such fee shall be paid to the state superintendent of public instruction, who shall deposit such fees with the state treasurer to the credit of the general fund."

Fee.

HeinOnline -- 1965 280 1965

Section 33. Section 75-3503, R. C. M. 1947, is amended to read as follows: Amending clause.

"75-3503. **Textbooks—license to sell—conditions.** Before any person, company, or corporation shall offer to any school district any textbook for adoption, sale or exchange, in the state of Montana, said person, company, or corporation shall comply with the following conditions: Textbooks—license to sell—conditions.

First: Such person shall file a copy of such textbook in the office of the state superintendent of public instruction, with a sworn statement of the list price; the lowest wholesale price; and the lowest exchange price that will be given when old books in the same subject and of the like kind and grade, but of a different series, are received in exchange, such exchange price to be based on a three (3) year adoption period. Such prices are to be quoted FOB Chicago, FOB San Francisco, FOB any other city from which publishers may ship books, and FOB a textbook depository in Montana. File copy of textbook.

Second: Such persons shall file with the state superintendent of public instruction a written agreement, (1) to furnish said book or books to any school board in the state of Montana at the said lowest price so filed, and to maintain said prices uniformly throughout the state; (2) to reduce such prices automatically in Montana whenever reductions are made elsewhere in the United States; and (3) to guarantee that at no time shall any book so filed by such persons, be sold in Montana at a higher price than is received for such book elsewhere in the United States under similar conditions of transportation and marketing. File agreement of price.

Third: Such persons shall file and maintain with the secretary of state a surety bond for not less than two thousand dollars ($2,000.00) and not more than ten thousand dollars ($10,000.00), such bond to be in an amount to be fixed by the state superintendent of public instruction and to run to the state of Montana, to be conditioned on the faithful performance of all things on the part of such persons to be performed under this act and such bond to be approved by the attorney general. Upon compliance with the foregoing conditions the state superintendent of public instruction shall issue a license to any File surety bond.

HeinOnline -- 1965 281 1965

such person to sell such textbooks to school districts in the state of Montana.

License fees.

Fourth: **License fees.** The person receiving such license shall pay a fee of *two dollars ($2.00)* for each book listed; provided that in the case of several books presented by one publisher in the same subject under the same series head for any one grade, the maximum filing fee in such case shall not exceed *six dollars ($6.00)*. Such moneys received through payment of said filing fees shall be deposited in the state treasury to the credit of the general fund."

Legislative intent —severability.

Section 34. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 1, 1965.

CHAPTER 122

An Act to Regulate Manufacturers and Purveyors of Food and Drink, and Establishments Preparing or Storing Food for Human Consumption; Defining Terms; Providing for Licensure and License Fee; and Providing Procedure for Cancellation or Denial of License; Providing for Control of Persons Working When Afflicted With Contagious or Infectious Disease; Empowering State Board of Health of Montana to Make and Enforce All Necessary Regulations Including Sanitary Standards for Such Establishments; and, to Establish Cooperative Agreements With Other Montana Agencies; Providing for Inspections, Sampling, and Report of Inspection; Making Reports of Inspections Evidence; Prescribing Penalties; Providing for Fee Required by This Act to Supercede Other Fees for Same Purpose; Directing That Unconstitutionality of a Part of This Act Shall Not Affect or Impair the Remainder; and Repealing Section 27-111, Revised Codes of Montana, 1947, as Amended or Supplemented.

HeinOnline -- 1965 282 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Public welfare requires control and regulation of the operation of manufacturers of food and drink.

Section 1. It is hereby found and declared that the public welfare requires control and regulation of the operation of manufacturers and purveyors of food and drink as defined in section 2, hereof, and of the sale, handling and processing of articles of food in connection therewith, and the control, inspection and regulation of persons engaged therein, in order to prevent or eliminate insanitary and unhealthful conditions and practices, which conditions and practices may endanger public health. It is further found and declared that the regulation of manufacturers and purveyors of food and drink as above outlined is in the interest of social well-being and the health and safety of the state and all of its people.

Definitions.

Section 2. **Definitions.** Except where the context indicates a different meaning, terms used in this act shall be defined as follows:

"Person."

(a) "Person" includes any individual, partnership, corporation, association, cooperative group or other entity engaged in the business of operating or owning or offering the services of a food manufacturing establishment, meat market or food service establishment.

"Board."

(b) "Board" as used in this act, shall mean the state board of health of the state of Montana.

"Secretary."

(c) The term "Secretary" shall mean the secretary and/or executive officer of the state board of health as designated by the board.

"Food."

(d) "Food" as used in this act, shall mean any raw, cooked or processed edible substances, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

"Food manufacturing establishment."

(e) "Food manufacturing establishment" means any building or structure or enclosure, or any part thereof, and all buildings in connection, kept, used or maintained for manufacture or preparation of food or drink for wholesale or retail sale, but shall not include milk producers, milk pasteurization plants, milk product manufacturing plants or slaughter houses.

"Meat market."

(f) "Meat market" means any building or structure or enclosure, or any part thereof, and all buildings in connection, kept, used or maintained to cut, prepare, store or

HeinOnline -- 1965 283 1965

display fresh and/or cured meat and meat products, and where fresh and/or cured meat and meat products are sold to the public.

"Food service establishment."

(g) "Food service establishment" shall mean any fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grille, tearoom, sandwich shop, soda fountain, food store serving food or beverage samples, food or drink vending machine, tavern, bar, cocktail lounge, night club, industrial feeding establishment, catering kitchen, commissary, private organization routinely serving the public or other similar place in which food or drink is prepared, served or provided the public with or without charge on the premises or elsewhere; provided the term "food service establishment" shall not be construed to mean establishments, vendors, or vending machines which sell or serve only packaged nonperishable foods in their unbroken original containers or any private organization serving their own members.

Exclusion.

License required.

Section 3. **License required.** Each year, every person engaged in the business of conducting or operating a food manufacturing establishment, meat market or food service establishment as defined in section 2 shall procure a license issued by the state board of health. A separate license shall be required for each such establishment, however, where more than one of each type of establishment is operated on the same premises and under the same management, only one license is required which shall enumerate on the certificate thereof the types of establishments licensed. Any person owning and operating one or more vending machines shall be required to procure only one license. Application for such license shall be made in writing to the board on such forms and with such pertinent information as it may deem necessary. Such licenses shall be granted as a matter of right, unless conditions exist which are grounds for cancellation, or denial of a license as hereinafter set forth, and subject to the right of applicant for license to hearing and judicial review as hereinafter set forth.

Separate license for each establishment.

Vending machines.

Application.

Fee—term of license.

Section 4. **Fee—term of license.**

Fee.

(a) There shall be paid to the board with each application for such license or for renewal of such license, an annual license fee of five dollars ($5). Fees collected by the state board of health for licenses issued shall be

HeinOnline -- 1965 284 1965

transmitted to the state treasurer and placed to the credit of the general fund.

Term.

(b) Each license shall expire on December 31st following its date of issue, unless cancelled for cause. Renewal may be obtained annually by paying the required annual license fee. Such license shall not be transferable nor be applicable to any premises other than that for which originally issued.

License not transferable.

Publicly owned or operated establishments exempt from fees and license.

(c) Establishments defined under section 2 owned or operated by a county or the state or its municipal corporations shall be exempt from fees and licensure hereunder but shall comply with all other requirements of this act including regulations adopted under authority of this act.

Cancellation or denial of license —procedure.

Section 5. **Cancellation or denial of license—procedure.**

Violation of act.

(a) The secretary of the board may cancel or deny any license if he finds, after proper investigation by a representative of the board, that: The licensee has violated provisions of this act or any regulation effective under this act or any other act administered by the board, and the licensee has failed or refused to remedy or correct the violation. Submission to the board of an acceptable plan of correction within ten (10) days after receipt from the secretary of written notice of the violation, and execution of an acceptable plan within the time prescribed in the written notice of approval thereof by said secretary shall be a bar to prosecution for violation.

Plan of correction.

Denial—written statement of grounds—hearing.

(b) No license shall be denied or cancelled by the secretary of the board without delivery to the applicant or licensee of a written statement of the grounds therefore or the charge involved and an opportunity to answer at a hearing before the board to show cause, if any, why the license should not be denied or cancelled. In such case, licensee must make written request to the secretary of the board for a hearing within five (5) days after notice of the grounds or charges has been received.

Multiple type establishment.

(c) When a multiple type establishment is licensed by the board, the denial or cancellation of said license may affect the entire establishment or only a portion of same as determined by the secretary of the board (a multiple type establishment includes two or more of the

HeinOnline -- 1965 285 1965

following: refrigerated locker, frozen food processing plant, food manufacturing establishment, meat market, or food service establishment).

Cancellation —procedure.

(d) Upon cancellation of a license or the right to operate one or more of the multiple type establishments under the same license, the license certificate shall be returned to the secretary for destruction or deletion of types of establishment as the secretary may direct in his notice of cancellation.

Application for writ of review of cancellation.

(e) Any order made by the secretary, after hearing as provided herein, denying or cancelling any license may be reviewed by application for writ of review (certiorari) commenced in the district court of the county in which the licensed premises are located, within ten (10) days from the date of notice in writing of the secretary's order of denial or cancelling such license has been served upon him.

County attorney to prosecute violators.

(f) Whenever the board shall furnish evidence to the county attorney of any county in this state, such county attorney shall prosecute any person, persons, firm or corporation violating any provisions of this act, or any rules or regulations effective under this act.

Diseased persons not to work.

Section 6. **Diseased persons not to work.** No person afflicted with any contagious or infectious disease shall work or be permitted to work in or about any establishment listed and defined in section 2, nor in the handling, dealing or processing of any human food in connection therewith.

Rules and regulations—cooperative agreements. Board empowered to prescribe and enforce rules and regulations.

Section 7. **Rules and regulations—cooperative agreements.**

(a) The board is hereby empowered to prescribe and to enforce rules and regulations and to prescribe such procedures as are necessary to preserve the public health and safety. These rules and regulations shall relate to the operation of all those establishments defined in section 2, hereof, and include coverage of food, personnel, food equipment and utensils, sanitary facilities and controls, construction and fixtures, and housekeeping.

Cooperative agreements with state agencies.

(b) The board is hereby authorized to enter into cooperative agreements with any of the state agencies, political subdivisions and municipal corporations for the

HeinOnline -- 1965 286 1965

purpose of carrying out the provisions of this act, or any part thereof.

Section 8. **Inspections.** Inspections.

(a) The board, through its secretary and employees, and through local, county and district health officers, sanitarians or other authorized representatives shall make all necessary investigations and inspections for enforcement of this act. Each local, county or district health officer, sanitarian or other authorized representative shall make regular inspections as the rules and regulations of the state board of health may direct, and such special inspections as the board may from time to time direct, and he shall make such reports relative to conditions existing within his district at such times and in such manner as the board may direct. Investigations and inspections for enforcement of act.

(b) All persons authorized by this act or by regulations adopted under this act shall have free access at all reasonable hours to any of the establishments listed and defined in section 2, for the purpose of making inspections and securing samples when necessary. Access to establishments.

(c) Licensees under this act shall furnish to such inspectors who shall apply to him for the purpose and tender to him the value of same, a sample or samples sufficient for analysis of any food as such inspector shall request. Samples.

(d) Whenever such inspector finds or has probable cause to believe that any such food is filthy, decomposed, putrid, contaminated or capable of causing foodborne illness, he shall issue in writing a report thereof to said licensee stating the reasons therefor and recommending withholding the same from the public as food for humans. A duplicate copy of such report, properly authenticated, shall be admissible in evidence in any action or proceeding wherein the condition of said food at the time of such inspection is material to such action or proceeding. Written report of unfit food. Duplicate copy.

Section 9. **Penalty.** Any person violating any provision of this act or regulation made hereunder shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than fifty dollars ($50) nor more than one hundred dollars ($100) for the first offense, and not less than seventy-five dollars ($75) nor more than two hundred dollars ($200) for the second Penalty for violation.

HeinOnline -- 1965 287 1965

offense; and for the third and subsequent offenses, by a fine of not less than two hundred dollars ($200) and imprisonment in the county jail not to exceed ninety (90) days.

License fee—supersedes other fees.

Section 10. **License fee—supersedes other fees.** Payment of the license fee stipulated herein shall be accepted in lieu of any and all existing fees and charges by the state board of health for like purposes or intent which may be existent prior to the adoption of this act.

Separability clause.

Section 11. **Separability clause.** If any clause, sentence, paragraph, section or part of this act, shall for any reason, be adjudged or decreed to be invalid by any court of competent jurisdiction, such judgment or decree shall not affect, impair nor invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment or decree shall have been rendered.

Repealing clause.

Section 12. **Repeal.** All acts or parts of acts in conflict herewith are hereby repealed and specifically section 27-111, Revised Codes of Montana, 1947.

Effective date.

Section 13. **Effective date.** This act is effective January 1, 1966.

Approved March 1, 1965.

CHAPTER 123

An Act Validating Deeds and Conveyances Heretofore Made Which Are Defective in Execution or Acknowledgment, Providing That Such Instruments Shall be Conclusive Evidence of Title Against The Grantors, Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Executed deeds to real property signed by grantors in due form—sufficient in law—evidence.

Section 1. All deeds to real property heretofore executed in this state, or any state or territory of the United States, provided no action is now pending to set aside any such deed, which shall have been signed by the grantors in due form, shall be sufficient in law to convey the legal title to the premises therein described

HeinOnline -- 1965 288 1965

from the grantors to the grantees, without any other execution or acknowledgment or witnesses thereto whatever; and such deeds so executed shall be received in evidence in all courts in this state, and be conclusive evidence of the title to the lands therein described against the grantors, their heirs and assigns.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 1, 1965.

CHAPTER 124

An Act to Validate Records of Court Proceedings Containing Defects, Omissions, Informalities or Irregularities in Obtaining a Judgment or Decree Affecting Real Property, in Which Time for Appeal Has Expired; Providing That Duly Certified Copies of Such Judgment or Decree May be Read in Evidence With the Same Effect as Judgments or Decrees Duly and Regularly Obtained, Recorded and Entered; and Providing for a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Judgment of any court of this state affecting real property which was properly recorded deemed notice, notwithstanding defects in proceeding —evidence.

Section 1. Any judgment or decree of any court of this state affecting real property, provided that no action is now pending to set aside any such judgment or decree, which was, previous to the date this act takes effect, copied into the proper book, kept in the office of the clerk of the district court, and certified copy of which judgment or decree was, previous to the date this act takes effect, recorded in the proper book, kept in the office of the county clerk and recorder, shall be deemed to impart, after that date, notice of its contents to subsequent purchasers and encumbrancers, notwithstanding any defect, omission, informality or irregularity in any of the court proceedings in the action in which such judgment or decree was entered and obtained, if time for appeal in the case has expired, and such judgment or decree shall not be deemed invalidated by reason of any such defect, omission, informality or irregularity; but nothing herein shall be deemed to affect the rights of purchasers or encumbrancers previous to that date. Duly

HeinOnline -- 1965 289 1965

certified copies of such judgment or decree, or of the record thereof, may be read in evidence, with like effect as copies of a judgment or decree duly and regularly obtained and recorded and entered.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 1, 1965.

CHAPTER 125

An Act Requiring the State Highway Commission to Determine That All Property Taxes on Land Acquired for State Highway Purposes Have Been Paid, and if Necessary, to Withhold a Sufficient Amount From the Acquisition Cost to Pay the Same; and Amending Section 32-1615, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-1615, R. C. M. 1947, is amended to read as follows:

Power and authority of state highway commission to lay out, alter, construct, improve and maintain highways.

"32-1615. **The state highway commission shall have the power and authority to lay out, alter, construct, improve and maintain highways in the state of Montana.**

Acquisition of land.

Notwithstanding any other provision of law, the state highway commission shall have the power and authority to acquire, by purchase or any other lawful manner, either in fee or in any lesser estate or interest, any lands or other real property, excluding oil, gas and mineral rights, which it deems reasonably necessary for present or future state highway purposes. The acquisition of such lands or real property, or interest therein, for such purposes includes, but is not limited to, that which is deemed reasonably necessary by the state highway commission, for any of the following purposes:

Purposes of acquisition—to include.

(a) For rights of way, including those necessary for state highways within cities.

(b) For the purposes of exchanging the same for other real property to be used for rights of way or other purposes authorized herein, provided that the same shall not be acquired for such a purpose by condemnation procedures

HeinOnline -- 1965 290 1965

(c) For deposits of road building materials for reasonably foreseeable future road building purposes and uses, including rock, gravel, sand or earth; provided however that the right of eminent domain shall not be available for the acquisition of any such deposits of road building materials which may then constitute a component part of an existing private business enterprise.

(d) For offices, weighing stations, shops or storage yards, buildings, rest areas, informational sites or communication facilities.

(e) Parks adjoining or near any state highway, provided that the same shall not be acquired for such a purpose by condemnation procedures.

(f) For the culture and support of trees or shrubs which benefit any state highway by aiding in the maintenance and preservation of the roadbed.

(g) For drainage in connection with any state highway.

(h) For the maintenance of any unobstructed view of any portion of a state highway so as to promote the safety of the traveling public.

(i) For the construction and maintenance of stock lanes or trails.

(j) For the construction and maintenance or replacement of private or public irrigation systems, private or public drainage systems, or natural water or drainage courses made necessary by highway construction.

(k) For providing land or other real property easements or rights of way for necessary relocation of existing utilities, utility easements or other easements for facilities or purposes then in place, or in effect, upon a proposed right of way.

When land cannot be acquired by purchase—procedure.

Whenever it shall be deemed necessary by the commission to secure lands or other real property, or rights therein, as herein provided, and the same cannot be acquired by purchase at a price or cost which is deemed reasonable by the commission, the commission may direct the attorney general or any county attorney in any county in the state to procure the lands or other real property by proceedings to be instituted in the manner

HeinOnline -- 1965 291 1965

as provided in sections 93-9901 to 93-9926 against all non-accepting landholders.

Resolution that land to be condemned is necessary.

The commission may not so direct the attorney general or any county attorney to procure rights of way, easements, lands or other real property as hereinbefore provided, unless the commission first adopts a resolution declaring that public interest and necessity require the construction or completion by the state, of the highway or improvement, for one of the purposes set forth in this section, and that the rights of way, easements, lands or other real property, or interest therein, described in such resolution and sought to be condemned is necessary for the improvement and that the same is planned and located in a manner which will be most compatible with the greatest public good and the least private injury.

Resolution shall create a disputable presumption.

Such resolution of the commission shall create and establish a disputable presumption of the public necessity of such proposed public improvement; that the taking of such rights of way, easements, lands or other real property or interests therein, and the amount thereof, is necessary therefor; and that the proposed public improvement is planned or located in a manner which will be most compatible with the greatest public good and the least private injury.

Remainder of condemned parcel having little market value—acquisition of entire parcel.

Whenever a part of a parcel of land or other real property is to be taken for state highway purposes and the remainder is to be left in such shape or condition as to be of little market value or to give rise to claims or litigation concerning severance or other damage, the state highway commission may acquire the whole parcel and sell the remainder or exchange the same for other property needed for state highway purposes.

Condemnation —filing of plat.

Whenever a part or parcel of land is taken for state highway purposes in such a shape or size as to come under the provisions set forth in section 11-614, R. C. M. 1947, the highway commission shall prepare and file in the office of the county clerk and recorder of the county in which said land lies, the required plat.

Authorization to acquire land for future needs —leasing of unused portions.

The authority conferred by this chapter to acquire rights of way, easements, lands or other real property and interest therein for state highway purposes includes authority to acquire for reasonably foreseeable future needs. The state highway commission is authorized to

HeinOnline -- 1965 292 1965

lease unused portions of any lands which are held for state highway purposes and interstate rights of way which are not presently needed for highway purposes on such terms and conditions as the state highway commission may fix and to maintain and care for such property in order to secure rent therefrom. All rent so received shall be deposited in the state highway fund.

Acquisition of right of way or easement to include use of materials therein.

The acquisition of any right of way or easement by the state highway commission for construction, operation, repair reconstruction, or maintenance of state highways shall include, among other rights, the right to use, remove, relocate, redistribute or otherwise dispose of any and all gravel or other road building materials, found or located within the boundaries of such rights of way or easements and such gravel or materials shall be deemed real property for the purposes of this act.

Duty of commission to determine and withhold from cost property taxes due.

Whenever a parcel of land is acquired for state highway purposes, as provided for in this act, it shall be the duty of the commission to determine that all property taxes thereon have been paid, and if necessary, to withhold a sufficient amount from the acquisition cost to pay the same.''

Approved March 1, 1965.

CHAPTER 126

An Act Amending Section 53-119.1 R. C. M. 1947, Enacted as Section 1, Chapter 182, Laws of 1955 to Provide for the Movement of Mobile Homes or House Trailers as Unladen Vehicles When All Items Are Removed Except the Equipment Originally Installed by the Manufacturer and the Personal Effects of the Owner.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 59-119.1 R. C. M. 1947, enacted as section 1, chapter 182, laws of 1955 is amended to read as follows:

Special permits for vehicles engaged in a single movement on the highways—fee—limitation—county treasurer to issue.

''53-119.1. **Special permits for vehicles engaged in a single movement on the highways—fee—limitation—county treasurer to issue.** *A vehicle, subject to license under title 53, may be moved unladen upon the highways*

HeinOnline -- 1965 293 1965

of this state from a point within the state to a point of destination, the county treasurer at the point of the origin of the movement, shall issue a special permit therefor in lieu of fees required under sections 53-122 and 53-615, upon application presented to him in such form as shall be provided by the registrar of motor vehicles and upon exhibiting to said county treasurer proof of ownership and evidence that the personal property taxes on such vehicle, if any are due thereon, have been paid and upon payment therefor a fee of five dollars ($5). Such permit shall not be in lieu of fees and permits required under sections 53-630 through 53-638.

Fee.

Such permit shall be for the transit of the vehicle only, and the vehicle shall not at the time of such transit, be used for the transportation of any persons, except the driver, or property whatsoever for compensation or otherwise, and shall be for one (1) transit only between the points of origin and destination as set forth in the application and shown on the permit.

Mobile home considered unladen —when.

For the purpose of this section, a mobile home shall be considered unladen, when all items are removed, except the equipment originally installed by the manufacturer; and personal effects of owners.

Definition of mobile home.

Definition of a mobile home-house trailer for the purposes of this section. A trailer or semitrailer which is designed, constructed and equipped as a dwelling place, living abode or sleeping place (either permanently or temporarily) and is equipped for movement on streets and highways, and exceeds twenty-five (25) feet in length, exclusive of trailer hitch."

Approved March 1, 1965.

CHAPTER 127

An Act Changing the Method for Computing School Tuition Payments; Amending Sections 75-1630 and 75-4230, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-1630, R. C. M. 1947, is amended to read as follows:

HeinOnline -- 1965 294 1965

"75-1630. **Transfer of funds.** Children may attend public elementary schools in districts in the county outside of the district in which they reside, or in a district in an adjoining county, or in a district in a county in another state when the district in such other state adjoins the district in which they reside, or is situated in a county in such other state, which county adjoins the state of Montana, when written permission is secured from the board of trustees of the district in which they are to attend school and when written permission has been given by the county superintendent of schools of the county in which the children reside. Permission must be granted for such attendance in another district within or without the county of such children's residence when the following conditions exist:

Transfer of funds.

Written permission.

Permission must be granted—when.

1. When a child lives less than three (3) miles from a public elementary school in another district or county and three (3) or more miles from a public elementary school in the district or county of his own residence.

2. When a child resides more than three (3) miles distance from a public elementary school within his own district or county and no transportation is furnished by the home district or county to such school.

3. When regular bus transportation is furnished by a public elementary school in another district or county and his own district or county does not furnish transportation.

Such distances mentioned above shall be measured from the point where the private family dwelling house is situated to the schoolhouse by the shortest traveled route.

Measure of distance.

4. When a family has children who must attend high school outside of its own district or county and such family also has elementary school children who can more conveniently attend the elementary grades in the same district where the high school is located, provided such elementary children live more than three (3) miles from the home school or that a parent must move to town to provide high school education for his children.

5. When the county superintendent of schools of the county where the child resides, for any other reason than stated above shall approve the attendance of any child

Approval by county superintendent.

HeinOnline -- 1965 295 1965

Items considered.

in a public elementary school in another county. In approving such attendance in another district or county, the county superintendent shall take in consideration such items as distance to school, road conditions, trading center of parents, opportunity to live with relatives, dormitory facilities, living conditions, transportation and type of educational program.

Insufficient room —disapproval of attendance.

If the board of trustees of the district to be attended shall find that, due to insufficient room and overcrowding the accreditation of the receiving school in the ensuing school year would be adversely affected by acceptance of a transfer pupil from another school district, the board may disapprove the attendance provided it mails written notice of disapproval to the parents or guardian of the pupil within fifteen (15) days after written notification by the county superintendent of the proposed attendance.

Residence— determination.

In the event that the residence, for determining tuition obligations, of such child is in dispute, then the rules for determining residence as outlined in section 83-303, shall be used by the county superintendent of the county of the child's residence, or in case the dispute is between districts of two counties by the county superintendents of such counties, to finally determine the residence of such child.

Approval of attendance in another district— payment of tuition —rates.

When approval of attendance in another district within or without the county has been granted, the district in which such child resides shall pay to the school district where such child attends, an amount based on the following tuition rates: in the case of attendance at an elementary school with an average number belonging up to one hundred (100), the tuition to be paid shall be two hundred *seventy-five* dollars *($275)*; where the school attended has an average number belonging between one hundred one (101) and three hundred (300), the tuition shall be two hundred *and fifty* dollars *($250)*; and where the school attended has an average number belonging over three hundred (300), the tuition rate shall be *two hundred twenty five dollars ($225)* per pupil.

Duty of board of school budget supervisors.

It is hereby made the duty of the board of school budget supervisors in approving the budgets, to include therein an item to care for the above tuition, if this has not al-

HeinOnline -- 1965 296 1965

ready been done by the board of trustees in preparing the budget for the district.

Applications— when made— exception—right of parent to send child to another district at his own expense.

Applications for permission to attend a school outside the district or county shall be made to the county superintendent before July 1, previous to the year of attendance, excepting in those cases where circumstances prevent such application. These applications are to be approved or disapproved, except as otherwise provided by law, by the county superintendent, and by the trustees of the district the pupil wishes to attend. However, nothing in this section shall be so construed as to deny a parent whose children cannot qualify under this section the right to send his children, at his own expense, to a public elementary school of any other district willing to accept them. Such parent must pay to the receiving district, tuition in the amount set forth herein.

Reimbursement of district for pupils from other districts.

At the close of the school term of the year in which such pupil attends this school outside the district, the clerk of such district shall transmit to the county superintendent the names of pupils from other districts attending his school, together with the number of days attended. This information in turn shall be transmitted by the county superintendent to the districts affected and such district shall reimburse the school attended for all pupils of its district; provided such pupil has attended at least forty (40) days. This amount of reimbursement shall be made an item of the budget for the coming year and reimbursement shall be made to the district of attendance out of the first funds available to the budget; provided, however, that the trustees of the district receiving pupils from another district may waive any or all tuition; provided, however, that such waiver must apply equally to all pupils, and provided, further, that the amount of this tuition shall not reduce the foundation program of the school paying it, but shall be an additional item added to it to be raised without a vote of the people; and provided further, that the district receiving the tuition may apply it against the needs of the budget after the regular district, county and state aid have been received.

Limitation of attendance.

Waiving tuition.

Raising of tuition by district not operating a school.

In the case of a district which does not operate a school, the amount of this tuition can be raised without a vote of the people if the five (5) mill district levy and other local revenue is insufficient to raise the amount needed.

HeinOnline -- 1965 297 1965

Superintendent and school board to determine eligibility—appeal.

It shall be the responsibility of the superintendent of schools and the board of trustees of the public elementary school receiving the pupils and county superintendent of schools of the county of the pupils' residence to determine and agree upon eligibility of pupils transferring under the provisions of this act; provided, that an appeal may be taken to the state superintendent of public instruction.

Attendance in an adjoining state—tuition payments.

Whenever elementary pupils residing in Montana are approved for attendance in an elementary school in an adjoining state; and whenever elementary pupils in an adjoining state are approved for attendance in an elementary school in Montana, the above schedule of tuition payments may be waived and payments arrived at on a reciprocal basis with the state involved. The state superintendent of public instruction is hereby authorized to negotiate with the state superintendent of public instruction of each state involved in arriving at tuition payments, which may either be on a per pupil basis of a flat amount or on an actual cost basis.

Dependent and neglected or juvenile delinquent child—tuition.

Whenever a child has been declared by a district court of the state of Montana a dependent and neglected child as defined in section 10-501, or a juvenile delinquent child, as defined in section 10-602, and has been ordered to be placed in a duly licensed child care institution in the state of Montana, which institution is approved by the state department of public welfare, and as a result of such order such child is required to attend a public elementary school in a school district outside of the district in which he resides, the district receiving such pupil shall be entitled to receive tuition on the basis of the schedule established in this act, provided that the geographical relationship of the receiving district to the district of residence shall be of no consequence. All other provisions of this section, excepting solely the geographical relationship of the districts, shall be applicable to the payment of tuition for the education of such child."

Amending clause.

Section 2. Section 75-4230, R. C. M. 1947, is amended to read as follows:

Attendance outside of county of pupil's residence —transfer of apportionment.

"75-4230. **Attendance outside of county of pupil's residence—transfer of apportionment.** The attendance of any eligible high school pupil at an accredited high school outside of the county of his residence, either within or without the state, must be authorized by the county super-

HeinOnline -- 1965 298 1965

intendent of schools of the county of his residence when a pupil lives closer to a high school of another county than to any high school located in the county of his residence, or when due to road or geographical conditions it is impractical to attend the high school of his own district, and when proper application has been made to the county superintendent of schools by the parent or guardian of the pupil for whom such transfer is desired; provided, that the county superintendent of schools may at his discretion require a pupil obtaining such transfer to attend the high school nearest his residence.

Discretion of county superintendent.

In all other cases the county superintendent of schools may authorize at his discretion any eligible pupil to attend a high school in a county outside of his residence.

Attendance in another state.

No payment shall be made for attendance in another state except where such attendance is in a high school in a county adjacent to the state of Montana.

Application—when made—exception.

Application for permission to attend a high school outside the county of residence shall be made to the county superintendent of the county of the pupil's residence before July 1, previous to the year of attendance, except in those cases where circumstances make this impossible. The county superintendent must then approve or disapprove these applications and notify the individuals concerned, and the high school to be attended, and the county superintendent of the county where the pupil will attend school. At the end of the school year attended and before July 15, the clerk of the school district operating the high school attended shall send to his county superintendent the name of all pupils from outside of the county attending his school, together with such pupils' home addresses and the number of days such pupils actually attended his high school, who in turn will transmit this information to the county superintendent of the pupils' residence.

Tuition—obligation.

Tuition for the year attended is hereby made an obligation of the county of residence for the following year. Before August 1 each year, the county superintendent of the county of residence of the pupils concerned shall make out a high school transfer budget. The total of such transfer budget shall be determined by multiplying the number of pupils attending high school outside of his county by *three hundred* dollars *($300)* in the case of attendance at a high school with an average number belong-

Transfer budget—total.

HeinOnline -- 1965 299 1965

ing up to one hundred (100) pupils; two hundred *seventy-five* dollars *($275)* in case of attendance at a high school with an average number belonging from one hundred one (101) to four hundred (400); and two hundred *fifty* dollars *($250)* in case of attendance at a high school with an average number belonging over four hundred (400); provided further, that the pupil has attended at least forty (40) days.

Limitation of attendance.

Transfer fund—administration.

The total of the transfer budget shall be subtracted from the receipts from the basic special tax for high schools as provided for in section 75-4516.1 before the remainder of such receipts is distributed to the high schools of the county. Such total of the transfer budget shall be held in a transfer fund separate and apart from other school funds and shall be allocated by the county treasurer upon instructions from the county superintendent.

Transfer of funds by county treasurer.

In December of each year the county superintendent of the county of the pupil's residence shall notify his county treasurer of the amount to be transferred to each high school educating the pupil concerned, and the said county treasurer shall forthwith remit said amounts to the county treasurer of the county in which such high schools are located. The county treasurer receiving such transfers of money shall place the amount to the credit of the general fund of the high school concerned. Receipts by any high school for tuition are to be used against the needs of the budget after county and state aid have been received.

Inmates of Montana children's center—aid to Twin Bridges public high school.

Whenever pupils are inmates of the Montana children's center at Twin Bridges and attend the public high school in Twin Bridges, the latter school shall receive from moneys available for state equalization aid four hundred dollars ($400.00) for each such pupil; provided, however, that this amount of tuition is not considered as a part of regular state equalization aid. Application for this tuition from the state is to be made in the same manner and at the same time as for regular state equalization aid.

Attendance of residents in high school in an adjoining state.

Whenever pupils residing in Montana are approved for attendance in a high school in an adjoining state, and whenever pupils in an adjoining state are approved for attendance in a high school in Montana, the above schedule of tuition payments may be waived, and payments arrived at on the reciprocal basis with the state involved. The state superintendent of public instruction is hereby author-

HeinOnline -- 1965 300 1965

ized to negotiate with the state superintendent of public instruction of each state involved in arriving at tuition payments, which may either be on a per pupil basis of a flat amount or on an actual cost basis."

Negotiation of tuition payment.

Approved March 1, 1965.

CHAPTER 128

An Act Making it Unlawful to Throw, Dump, Deposit or Cause to be Deposited, Any Garbage, Refuse, Waste or Litter on the Right of Way of Any State, Interstate, or Secondary Highway; Providing for a Penalty, Reward and a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Unlawful to deposit litter on the right-of-way of any state highway—penalty.

Section 1. Any person who throws, dumps, deposits or causes to be deposited, any garbage, refuse, waste or litter on the right of way of any state highway or interstate highway, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of two hundred fifty dollars ($250) or by imprisonment in the county jail for a period not exceeding thirty (30) days, or both such fine and imprisonment in the discretion of the court.

Reward for information leading to arrest and conviction of accused.

Section 2. Upon a conviction under the provisions of this act, any person who furnishes information to law enforcement officers leading to the arrest and conviction of the accused person shall be paid a reward from the state general fund in the sum of one hundred dollars ($100).

Duty of state highway commission to post notices of act.

Section 3. It is the duty of the state highway commission to post notices of this act, and the penalties provided for, on the state and interstate highways at locations to be designated by the state highway commission.

Repealing clause.

Section 4. All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 27, 1965.

CHAPTER 129

An Act Defining Adjusted Gross Income; Amending Section 84-4905, R. C. M. 1947.

HeinOnline -- 1965 301 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4905, R. C. M. 1947, is amended to read as follows:

Adjusted gross income.

"84-4905. **Adjusted gross income.** *(1)* Adjusted gross income shall be the taxpayer's *federal income tax* adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section *may* be labeled or amended, and in addition *shall include the following:*

Additional items included.

(a) Interest received on obligations of a state, territory, county or municipality;

(b) Refunds received of federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability.

Exemptions.

(2) Adjusted gross income does not include the following which are exempt from taxation under this act:

(a) Interest income from obligations of the United States government.

(b) Dividends from capital stock of national banks located within the state of Montana.

(c) All benefits received under the federal employees retirement act not in excess of thirty-six hundred dollars ($3600).

(d) All benefits paid under the Montana teachers retirement act which are specified as exempt from taxation by section 75-2713, R. C. M. 1947.

(e) All benefits paid under the Montana public employees act which are specified as exempt from taxation by section 68-1303, R. C. M. 1947.

(f) All benefits paid under the Montana highway patrol retirement act which are specified as exempt from taxation by section 31-221, R. C. M. 1947.

(g) Montana income tax refunds or credits thereof.

Shareholder of corporation—election under subchapter S. of the Internal Revenue Code of 1954, as amended.

(3) In the case of a shareholder of a corporation with respect to which the election provided for under subchapter S. of the Internal Revenue Code of 1954, as amended, is in effect, but with respect to which the election provided for under section 84-1501.2, R. C. M. 1947, as amended, is

HeinOnline -- 1965 302 1965

not in effect, adjusted gross income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits or losses required to be included in the shareholder's federal income tax adjusted gross income by reason of the said election under subchapter S. However, the shareholder's adjusted gross income shall include actual distribution from the corporation to the extent they would be treated as taxable dividends if the subchapter S. election were not in effect.''

Approved March 1, 1965.

CHAPTER 130

An Act Providing for Release and Discharge of Liens Imposed With Respect to Any Tax Due Under Title 84, Chapter 49, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Release of lien or partial discharge of property.

Section 1. **Release of lien or partial discharge of property.** (1) The board of equalization shall issue a certificate of release of any lien imposed with respect to any tax due under title 84, chapter 49, R. C. M. 1947, when it finds that the liability for the amount of tax assessed, together with all penalties and interest in respect thereof, has been fully satisfied. The board of equalization may issue a certificate of release if it determines that the lien is unenforceable.

(2) The board of equalization may issue a certificate of discharge of any part of the property subject to any lien imposed with respect to any tax due under title 84, chapter 49, R. C. M. 1947, if:

Fair market value of property subject to lien is double the liability.

(a) It finds that the fair market value of that part of the property remaining subject to the lien is at least double the value of the unsatisfied liability secured by such lien and the amount of all other liens upon the property which have priority to such lien;

Payment to state treasurer in part satisfaction of liability.

(b) There is paid to the state treasurer in part satisfaction of the liability secured by the lien, an amount which shall not be less than the value, as determined by the board of equalization, of the interest of the state of Montana in the part to be discharged; or

HeinOnline -- 1965 303 1965

Interest of no value.

(c) The board of equalization determines at any time that the interest of the state of Montana in the part to be so discharged has no value.

Approved March 1, 1965.

CHAPTER 131

An Act Amending Section 94-1201, of the Revised Codes of Montana of 1947; to Provide Shelter Where Necessary for Household Pets.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 94-1201, R. C. M. 1947, is amended to read as follows:

Overdriving animals—misdemeanor.

"94-1201. (11508) **Overdriving animals.** Every person who overdrives or overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or another, or deprives any animal of necessary food or drink, *or shelter, in the case of houehold pets,* or neglects or refuses to furnish it such food or drink, *or shelter, in the case of household pets,* or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, *or shelter, in the case of household pets,* or who wilfully instigates or in any way engages in any act of cruelty to any animal, is guilty of a misdemeanor."

Approved March 1, 1965.

CHAPTER 132

An Act to Amend Section 40-3906 (4), Revised Codes of Montana, 1947, Relating to Life Insurance of Debtor Groups and Removing the Limitation of Ten Thousand Dollars Contained in Said Section and Providing That the Amount of Life Insurance Shall be Limited to the Amount Owed by the Debtor to the Creditor, and to Repeal All Acts in Conflict Therewith.

HeinOnline -- 1965 304 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 40-3906 (4), Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"40-3906. (4) **The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him to the creditor.** Where the indebtedness is repayable in one sum to the creditor, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of *five years,* except that such insurance may be continued for an additional period not exceeding six months in the case of default, extension or recasting of the loan." Insurance on life of debtor—not to exceed debt—term.

Section 2. All acts and parts of acts in conflict therewith are hereby repealed. Repealing clause.

Approved March 1, 1965.

CHAPTER 133

An Act to Amend Section 11-3827, R. C. M. 1947, to Authorize Cities, Counties and City-County Planning Boards to Accept, Receive, Take, Hold, Own and Possess Any Gift, Donation, Grant, Devise or Bequest, or Any Property, Real, Personal or Mixed, or Any Improved or Uninmproved Park or Playground, and Utilize, Hold or Dispose of the Same for Planning Purposes Not Inconsistent With the Provisions of Title 11, Chapter 38, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-3827, Revised Codes of Montana, 1947, is amended to read as follows: Amending clause.

"11-3827. A city, county *or city-county planning board organized pursuant to the provisions of this title, is hereby empowered and given the right to accept, receive, take, hold, own and possess any gift, donation, grant, devise or bequest, or any property, real, personal or mixed, or any improved or unimproved park or playground, and utilize, hold, or dispose of the same for planning purposes, not inconsistent with the provisions of this act.* Any moneys so accepted shall be deposited with the city or county in a Power of city, county or city-county planning board—gift, donation, grant, devise or bequest. Disposition of moneys.

HeinOnline -- 1965 305 1965

special nonreverting planning board fund to be available for expenditures by the planning board for the purpose designated by the donor. The disbursing officer of a city or county shall draw warrants against such special nonreverting fund only upon vouchers signed by the president and secretary of the planning board. Upon approval of the governing bodies represented on the board, a planning board may accept, receive, and expend funds, grants, and services from the federal government or its agencies and instrumentalities of state or local government, *or its agencies and instrumentalities of state or local government,* or from civic sources and contract with respect thereto, and provide such information and reports as may be necessary to secure such financial aid."

Governmental grants.

Approved March 1, 1965.

CHAPTER 134

An Act to Amend Section 67-1912, R. C. M. 1947, Relating to the Payment of Trustees' Annual Compensation Out of Income and Trustees' Final Termination Commissions Out of Principal.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause

Section 1. That Section 67-1912, R. C. M. 1947, is amended to read as follows:

Ordinary expenses —income.

"67-1912. **Expenses—apportionment.** (1) All ordinary expenses incurred in connection with the trust estate or with its administration and management, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the estates of both tenant and remainderman, interest on mortgages on the principal, ordinary repairs, trustees' compensation *annually* computed on principal, compensation of assistants, and court costs and attorneys' and other fees on regular accountings, shall be paid out of income. But such expenses where incurred in disposing of, or as carrying charges on, unproductive estate as defined in section 67-1911, shall be paid out of principal, subject to the provisions of subsection (2) of section 67-1911.

Expenses of unproductive estate.

All other expenses —principal.

(2) All other expenses, including trustees' *final termination* commissions computed upon principal, cost of in-

HeinOnline -- 1965 306 1965

vesting or reinvesting principal, attorneys' fees and other costs incurred in maintaining or defending any action to protect the trust or the property or assure the title thereof, unless due to the fault or cause of the tenant, and costs of, or assessments for, improvements to property forming part of the principal, shall be paid out of principal. Any tax levied by any authority, federal, state or foreign, upon profit or gain defined as principal under the terms of subsection (2) of section 67-1903 shall be paid out of principal, notwithstanding said tax may be denominated a tax upon income by the taxing authority.

Tax.

(3) Expenses paid out of income according to subsection (1) which represent regularly recurring charges shall be considered to have accrued from day to day, and shall be apportioned on that basis whenever the right of the tenant begins or ends at some date other than the payment date of the expenses. Where the expenses to be paid out of income are of unusual amount, the trustee may distribute them throughout an entire year or part thereof, or throughout a series of years. After such distribution, where the right of the tenant ends during the period, the expenses shall be apportioned between tenant and remainderman on the basis of such distribution.

Accrual expenses.

Unusual amount of expense.

Apportionment between tenant and remainderman.

(4) Where the costs of, or special taxes or assessments for, an improvement representing an addition of value to property held by the trustee as part of principal are paid out of principal, as provided in subsection (2), the trustee shall reserve out of income and add to the principal each year a sum equal to the cost of the improvement divided by the number of years of the reasonably expected duration of the improvement."

Costs of improvements.

Approved March 1, 1965.

CHAPTER 135

An Act to Provide for Distinctive License Plates for Motor Vehicles Owned by Active Members of the Montana National Guard.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In addition to the regular license plates prescribed by law, there may be issued to each active member of the Montana national guard, distinctive license plates, bearing the words "national guard" and

License plates issued to each active member of the Montana national guard—method of registration.

HeinOnline -- 1965 307 1965

"Montana", said plates to be numbered in sets of two with a different number following the letters "NG". Plates shall be furnished by the registrar of motor vehicles to the adjutant general, and by him, issued to the members of the active guard. The adjutant general shall inform the said registrar of each set so issued, giving the number of the license, the name, unit and home address of the member to whom issued, and shall be responsible for the recovery of said plates and notification to the registrar upon the member becoming ineligible to use them. Plates so issued shall be placed or mounted on the vehicle over the regular license plate, and shall be removed upon sale or other disposition of the vehicle. Said distinctive plates shall be renewed concurrently with the issuance of the regular motor vehicle license plates.

Approved March 1, 1965.

CHAPTER 136

An Act Relating to Regulation of Certain Junkyards.

Be it enacted by the Legislative Assembly of the State of Montana:

Purpose of act.

Section 1. The purpose of this act is: (1) to prevent the distraction of motorists.

(2) to enhance scenic beauty along roads.

"Road."

Section 2. As used in this act unless the context otherwise requires. (1) "Road" means a county, state, federal or limited access highway including bridges and bridge approaches.

"Junkyard."

(2) "Junkyard" means a place where 5 or more junked, wrecked or non-operative automobiles, vehicles, machines and other similar scrap or salvage materials are located.

"Operator or operators."

(3) "Operator or operators" means a person, firm or corporation who operates a junkyard, or who allows a junkyard to be placed or to remain on premises owned or controlled by him.

"Person."

(4) "Person" means an individual, firm, agency, company, association, partnership, business trust, joint stock company or corporation.

HeinOnline -- 1965 308 1965

(5) "Sheriff" means a sheriff of the county wherein the junkyard is situated. "Sheriff."

(6) "Deputy Sheriff" means a person appointed by the sheriff. "Deputy sheriff."

(7) "Permit" means the document which allows a person to operate a junkyard under this act. "Permit."

Section 3. No person shall operate a junkyard which is closer than 2000 feet to the centerline of a road unless a permit is obtained from the sheriff. The operation of such a junkyard without a permit is declared to be a public nuisance. Operation of a junkyard closer than 2,000 feet to the centerline of a road—permit.

Section 4. (1) The sheriff may require screening of a junkyard when: Sheriff may require screening —when.

(a) it is within 2000 feet of the centerline of a road;

(b) it is not hidden from the view of motorists using the road by an artificial or natural screen or by natural topography.

(2) The sheriff shall issue a permit in accordance with his rules and regulations: Permit—rules and regulations.

(a) after the required screening is done, or

(b) when the junkyard is hidden from the view of motorists using the road by an artificial or natural screen or by natural topography.

(3) The screening required may be effected: Screening required.

(a) by the construction of a fence, or

(b) by plants, shrubs, trees, or flowering plants which provide a suitable and sufficient screen, or

(c) by making use of existing foliage.

(4) The required screening must be installed within six (6) months after the effective date of this act and must be at least eight (8) feet in height and be maintained (i.e. painted, rebuilt, etc.) thereafter. Installation by.

Section 5. The sheriff shall charge a fee of fifty dollars ($50.00) for the issuance of a permit. A permit shall be effective for a two-year period. Fees collected shall be deposited with the county treasurer to the credit of the general fund. Permit—fee—effective period.

HeinOnline -- 1965 309 1965

Financial responsibility of operator —bond.

Section 6. When the sheriff has reasonable cause to doubt the financial responsibility of an operator or his compliance with this act, the sheriff may require him to furnish and maintain a bond. In each case, he shall approve a form, amount, and the sureties. The bond shall be no less than one thousand dollars ($1,000.00) nor more than five thousand dollars ($5,000.00), conditioned upon the operator complying with the provisions of this act and the regulations adopted pursuant to it.

Exceptional hardship with compliance— time limit.

Section 7. When the sheriff finds compliance with this act would cause peculiar or exceptional hardship to an operator the junkyard may be maintained for a period of two (2) years following the effective date of this act. However, it may not be expanded in any manner.

Power of sheriff.

Section 8. The sheriff has the power to:

(1) Exercise general supervision of the administration and enforcement of this act.

(2) Adopt after a hearing rules and regulations concerning the operation of junkyards which the sheriff deems necessary to the administration and enforcement of this act.

(3) Adopt without a hearing rules and regulations concerning material, foliage and screening which will insure accomplishment of the purposes of this act.

(4) Adopt without hearing rules and regulations concerning the procedural aspects of hearings, and detail necessary to the enforcement and administration of this act.

(5) Issue after a hearing:

(a) orders abating the operation of a junkyard which violate this act, or

(b) orders which require adoption of remedial measures including construction or planting of screens or the utilization of natural screening, extension, modification or addition to new or existing screens.

(6) Issue, renew, revoke, modify or deny permits for the operation of a junkyard.

(7) Make investigations or inspections which are deemed necessary by the sheriff:

HeinOnline -- 1965 310 1965

(a) to insure compliance with the provisions of this act,

(b) to insure compliance with rules, regulations or orders of the board which are deemed necessary to the administration and enforcement of this act.

(8) Institute in a court of competent jurisdiction procedures to compel compliance with the provisions of this act or with the orders, rules and regulations issued pursuant to it.

(9) Enter at a reasonable time through an officer, assistant, agent or employee public or private property for the purpose of inspection of conditions relating to the operation of a junkyard.

Public hearings—when—procedure.

Section 9. (1) Public hearings shall be conducted by the sheriff:

(a) prior to the adoption of rules or regulations which concern the prevention, abatement or control of junkyards;

(b) before the issuance of an order prohibiting an act or acts deemed in controvention of any rules, regulations, orders or permits of the sheriff;

(c) before denial, revocation or modifications of a permit provided for by this act;

(d) before any other final determination is made by the sheriff which directly affects the activities of a person.

(2) The sheriff shall grant a hearing to a person:

(a) who has not been heard in connection with issuance of an order or the making of a determination, and

(b) who considers himself aggrieved by an order or determination and

(c) who shall file with the sheriff a petition. The petition shall explain briefly why an order or determination is contrary to law or is injurious to him, and request a hearing. At a hearing the petitioner may appear in person or by attorney, may submit evidence, and shall be given the opportunity to be heard.

HeinOnline -- 1965 311 1965

(3) Hearings provided for in this act may be conducted by the sheriff or deputy sheriff designated by him in the name of the sheriff at a time and place specified by the sheriff.

Administrative hearing—power of sheriff.

Section 10. At an administrative hearing the sheriff or a deputy sheriff designated by him to hold the hearing may:

(a) administer oaths

(b) examine witnesses and

(c) issue in the name of the sheriff notices of hearings and subpoenas to witnesses and for production of evidence relevant to any matter involved in the hearing.

Appeal from decision of sheriff at hearing.

Section 11. (1) Within fifteen (15) days of the mailing of notice of the final decision of the sheriff, a person who has petitioned for a hearing may appeal from the decision.

(2) Appeal will be made to the district court of the county in which the junkyard is located.

(3) The court shall set the matter for hearing upon thirty (30) days' written notice to the sheriff and petitioner. At the hearing, the court shall take testimony, examine the facts of the case, and determine whether the petitioner is entitled to relief.

Violation—penalty.

Section 12. A person violating a provision of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00). Each day of violation of the provisions of this act shall constitute a separate offense.

Approved March 1, 1965.

CHAPTER 137

An Act Authorizing and Directing the State Highway Commission to Establish Temporary and Permanent Ports of Entry and Checking Stations.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1965 312 1965

State highway commission authorized to establish ports of entry or checking stations upon any highway in the state of Montana.

Section 1. To augment and help make more efficient and effective the enforcement of certain laws of the state of Montana, the state highway commission is hereby authorized and directed to establish from time to time temporary or permanent ports of entry or checking stations upon any highways in the state of Montana and at such places as the state highway commission shall deem necessary and advisable.

Duty of commission to establish checking stations on major highways entering state.

Section 2. In addition to the power granted to the state highway commission in section 1 of this act, it shall be the duty of the commission to establish checking stations at convenient points on the major highways entering this state, and such checking stations shall be kept open at all times.

Commission to cooperate with other agencies of state.

Section 3. The state highway commission shall cooperate with all other agencies of this state, or any political subdivisions thereof, in the use of such ports of entry or checking stations, so that maximum use can be made of such facilities in enforcement of the laws of this state.

Commission to prepare a budget for construction and operation.

Section 4. The state highway commission shall prepare a budget for an appropriation from the highway account in the earmarked revenue fund for the construction and operation of the checking stations provided for in section 2 of this act, which budget shall be over and above any budget requests for the operation and maintenance of the present facilities, for the 1967-1968 biennium, and submit the same to the budget director.

Effective December 31, 1966.

Section 5. This act is effective December 31, 1966.

Approved March 1, 1965.

CHAPTER 138

An Act Limiting the Liability of a Landowner or Tenant to Persons Permitted to Enter Lands for Recreational Purposes, and Defining Recreational Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Landowner or tenant who permits any person to enter upon land in possession for recreational purpose without accepting consideration shall not be liable for injury unless it results from a wilful or wanton act.

Section 1. A landowner or tenant who permits by act or implication, any person to enter upon any property in the possession or under the control of such landowner or tenant for any recreational purpose without accepting a valuable consideration therefor, does not by granting such permission, extend any assurance that such property is safe for any purpose, nor confer upon such a person

HeinOnline -- 1965 313 1965

the status of invitee or licensee to whom any duty of care is owed, and such landowner or tenant, shall not be liable to such person for any injury to person or property resulting from any act or omission of such landowner or tenant, unless such act or omission constitutes wilful or wanton misconduct.

Recreational purposes.

Section 2. Recreational purposes as used herein shall include hunting, fishing, swimming, boating, water skiing, camping, picnicking, pleasure driving, winter sports, hiking or other pleasure expeditions.

Approved March 1, 1965.

CHAPTER 139

An Act to Establish Uniform and Modern Regulations Relating to Brakes on Vehicles; Requiring Brakes on All Vehicles and Specifying Exceptions Thereto; Requiring Vehicles to be Equipped With Both Service and Parking Brakes; Establishing Performance Ability of Brakes; Defining Hydraulic Brake Fluid; Authorizing Patrol Board to Adopt Brake Fluid Standards and Specifications; Prohibiting the Sale of Brake Fliud Which Does Not Meet Specifications; Repealing Section 32-21-143, R. C. M., 1947, and All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Brake equipment required.

Section 1. **Brake equipment required.** Every motor vehicle, trailer, semitrailer and pole trailer, and any combination of such vehicles operating upon a highway within this state shall be equipped with brakes in compliance with the requirements of this chapter.

Service brakes —adequacy.

(a) **Service brakes—adequacy.** Every such vehicle and combination of vehicles, except special mobile equipment as defined in sections 32-2102 (h) and 53-639, R. C. M., 1947, shall be equipped with service brakes complying with the performance requirements of section 2 of this act and adequate to control the movement of and to stop and hold such vehicle under all conditions of loading, and on any grade incident to its operation.

Parking brakes —adequacy.

(b) **Parking brakes—adequacy.** Every such vehicle and combination of vehicles, except motorcycles and

HeinOnline -- 1965 314 1965

motor-driven cycles, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

Brakes on all wheels—exceptions.

(c) **Brakes on all wheels.** Every vehicle shall be equipped with brakes acting on all wheels except:

Trailers—limitation.

1. Trailers, semitrailers, pole trailers of a gross weight not exceeding three thousand (3,000) pounds, provided that:

a. The total weight on and including the wheels of the trailer or trailers shall not exceed forty per cent (40%) of the gross weight of the towing vehicle when connected to the trailer or trailers, and

b. The combination of vehicles, consisting of the towing vehicle and its total towed load, is capable of complying with the performance requirements of section 2 of this act.

Towed vehicle—limitation.

2. Any vehicle being towed in driveaway or towaway operations, provided the combination of vehicles is capable of complying with the performance requirements of section 2 of this act.

Trucks and tractors —exception —limitation.

3. Trucks and truck-tractors having three (3) or more axles need not have brakes on the front wheels, except

HeinOnline -- 1965 315 1965

that when such vehicles are equipped with at least two steerable axles, the wheels of one steerable axle need not have brakes. However, such trucks and truck-tractors must be capable of complying with the performance requirements of section 2 of this act.

Special mobile equipment.

4. Special mobile equipment as defined in section 32-2102 (h) and 53-639, R. C. M., 1947.

Motorcycle sidecar—limitation.

5. The wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, or the front wheel of a motor-driven cycle need not be equipped with brakes, provided that such motorcycle or motor-driven cycle is capable of complying with the performance requirements of section 2 of this act.

Automatic trailer brake.

(d) **Automatic trailer brake application upon breakaway.** Every trailer, semitrailer and pole trailer equipped with air or vacuum actuated brakes and every trailer, semitrailer and pole trailer with a gross weight in excess of three thousand (3,000) pounds, manufactured or assembled after January 1, 1966, shall be equipped with brakes acting on all wheels and of such character as to be applied automatically and promptly, and remain applied for at least fifteen (15) minutes, upon breakaway from the towing vehicle.

Tractor brakes protected.

(e) **Tractor brakes protected.** Every motor vehicle manufactured or assembled after January 1, 1966, and used to tow a trailer, semitrailer or pole trailer equipped with brakes, shall be equipped with means for providing that in case of breakaway of the towed vehicle, the towing vehicle will be capable of being stopped by the use of its service brakes.

Trailer air reservoirs safeguarded.

(f) **Trailer air reservoirs safeguarded.** Air brake systems installed on trailers manufactured or assembled after January 1, 1966, shall be so designed that the supply reservoir used to provide air for the brakes shall be safeguarded against backflow of air from the reservoir through the supply line.

Two means of emergency brake operation.

(g) **Two means of emergency brake operation.** 1. **Air brakes.** After January 1, 1966, every towing vehicle, when used to tow another vehicle equipped with air controlled brakes, in other than driveaway or towaway operations, shall be equipped with two (2) means for emergency application of the trailer brakes. One of these

HeinOnline -- 1965 316 1965

means shall apply the brakes automatically in the event of a reduction of the towing vehicle air supply to a fixed pressure which shall be not lower than twenty (20) pounds per square inch nor higher than forty-five (45) pounds per square inch. The other means shall be a manually controlled device for applying and releasing the brakes, readily operable by a person seated in the driving seat, and its emergency position or method of operation shall be clearly indicated. In no instance may the manual means be so arranged as to permit its use to prevent operation of the automatic means. The automatic and the manual means required by this section may be, but are not required to be, separate.

Vacuum brakes.

2. **Vacuum brakes.** After January 1, 1966, every towing vehicle used to tow other vehicles equipped with vacuum breakes, in operations other than driveaway or towaway operations, shall have, in addition to the single control device required by subsection (h), a second control device which can be used to operate the brakes on towed vehicles in emergencies. The second control shall be independent of brake air, hydraulic, and other pressure, and independent of other controls, unless the braking system be so arranged that failure of the pressure upon which the second control depends will cause the towed vehicle brakes to be applied automatically. The second control is not required to provide modulated braking.

Single control to operate all brakes.

(h) **Single control to operate all brakes.** After January 1, 1966, every motor vehicle, trailer, semitrailer and pole trailer, and every combination of such vehicles, except motorcycles and motor-driven cycles, equipped with brakes shall have the braking system so arranged that one control device can be used to operate all service brakes. This requirement does not prohibit vehicles from being equipped with an additional control device to be used to operate brakes on the towed vehicles. This regulation does not apply to driveaway or towaway operations unless the brakes on the individual vehicles are designed to be operated by a single control on the towing vehicle.

Reservoir capacity and check valve—air brakes.

(i) **Reservoir capacity and check valve. 1. Air brakes.** Every bus, truck or truck-tractor with air operated brakes shall be equipped with at least one reservoir

HeinOnline -- 1965 317 1965

sufficient to insure that, when fully charged to the maximum pressure as regulated by the air compressor governor cut-out setting, a full service brake application may be made without lowering such reservoir pressure by more than twenty per cent (20%). Each reservoir shall be provided with means for readily draining accumulated oil or water.

Vacuum brakes.

2. **Vacuum brakes.** After January 1, 1966, every truck with three (3) or more axles equipped with vacuum assistor type brakes and every truck-tractor and truck used for towing a vehicle equipped with vacuum brakes shall be equipped with a reserve capacity or a vacuum reservoir sufficient to insure that, with the reserve capacity or reservoir fully charged and with the engine stopped, a full service brake application may be made without depleting the vacuum supply by more than forty per cent (40%).

Reservoir safeguarded.

3. **Reservoir safeguarded.** All motor vehicles, trailers, semitrailers and pole trailers, when equipped with air or vacuum reservoirs or reserve capacity as required by this section, shall have such reservoirs or reserve capacity so safeguarded by a check valve or equivalent device that in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored air or vacuum shall not be depleted by the leak or failure.

Warning devices —air brakes.

(j) **Warning devices.** 1. **Air brakes.** Every bus, truck or truck-tractor using compressed air for the operation of its own brakes or the brakes on any towed vehicle, shall be provided with a warning signal, other than a pressure gauge, readily audible or visible to the driver, which will operate at any time the air reservoir pressure of the vehicle is below fifty per cent (50%) of the air compressor governor cut-out pressure. In addition, each such vehicle shall be equipped with a pressure gauge visible to the driver, which indicates in pounds per square inch the pressure available for braking.

Vacuum brakes.

2. **Vacuum brakes.** After January 1, 1966, every truck-tractor and truck used for towing a vehicle equipped with vacuum operated brakes and every truck with three (3) or more axles using vacuum in the operation of its brakes, except those in driveaway or towaway operations, shall be equipped with a warning signal, other than a gauge indicating vacuum, readily audible or visible to the driver, which will operate at any time the

HeinOnline -- 1965 318 1965

vacuum in the vehicle's supply reservoir or reserve capacity is less than eight (8) inches of mercury.

3. **Combination of warning devices.** When a vehicle required to be equipped with a warning device is equipped with both air and vacuum power for the operation of its own brakes or the brakes on a towed vehicle, the warning devices may be, but are not required to be, combined into a single device which will serve both purposes. A gauge or gauges indicating pressure or vacuum shall not be deemed to be an adequate means of satisfying this requirement. Combination of warning devices.

Section 2. **Performance ability of brakes.** Every motor vehicle and combination of vehicles, at all times and under all conditions of loading, upon application of the service brake, shall be capable of: Performance ability of brakes.

(a) Develop a braking force that is not less than the percentage of its gross weight tabulated herein for its classification. Braking force.

(b) Decelerating to a stop from not more than twenty (20) miles per hour at not less than the feet per second per second tabulated herein for its classification, and Deceleration.

(c) Stopping from a speed of twenty (20) miles per hour in not more than the distance tabulated herein for its classification, such distance to be measured from the point at which movement of the service brake pedal or control begins. Stopping.

Tests for deceleration and stopping distance shall be made on a substantially level (not to exceed plus or minus one per cent (1%) grade), dry, smooth, hard surface that is free from loose material. Tests—criterion.

	1	2	3	4
	Classification of Vehicles	Braking force as a percentage of gross vehicle or combination weight	Deceleration in feet per second per second	Brake system application and braking distance in feet from an initial speed of twenty (20) miles per hour
A	Passenger vehicles with a			

HeinOnline -- 1965 319 1965

	seating capacity of ten (10) people or less including driver, not having a manufacturer's gross vehicle weight rating	52.8%	17	25
B-1	All motorcycles and motor-driven cycles	43.5%	14	30
B-2	Single unit vehicles with a manufacturer's gross vehicle weight rating of ten thousand (10,000) pounds or less	43.5%	14	30
C-1	Single unit vehicles with a manufacturer's gross weight rating of more than ten thousand (10,000) pounds	43.5%	14	40
C-2	Combination of a two-axle towing vehicle and a trailer with a gross trailer weight of three thousand (3,000) pounds or less	43.5%	14	40

HeinOnline -- 1965 320 1965

C-3	Buses, regardless of the number of axles, not having a manufacturer's gross weight rating	43.5%	14	40
C-4	All combinations of vehicles in driveaway - towaway operations	43.5%	14	40
D	All other vehicles and combinations of vehicles	43.5%	14	50

Maintenance of brakes

Section 3. **Maintenance of brakes.** All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

Hydraulic brake fluid—term.

Section 4. **Hydraulic brake fluid.** (a) The term "hydraulic brake fluid" as used in this section shall mean the liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle.

Regard for safety.

(b) Hydraulic brake fluid shall be distributed and serviced with due regard for the safety of the occupants of the vehicle and the public.

Standards and specifications.

(c) The Montana highway patrol board shall, after public hearing following due notice, adopt and enforce regulations for the administration of this section and shall adopt and publish standards and specifications for hydraulic brake fluid which shall correlate with, and so far as practicable conform to, the then current standards and specifications of the society of automotive engineers applicable to such fluid.

Distribution and service—compliance.

(d) No person shall distribute, have for sale, offer for sale, or sell any hydraulic brake fluid unless it complies with the requirements of this section. No person

HeinOnline -- 1965 321 1965

shall service any vehicle with brake fluid unless it complies with the requirements of this section.

Repealing clause.

Section 5. Repealing section 32-21-143, R. C. M. 1947, and all acts or parts of acts in conflict herewith.

Approved March 1, 1965.

CHAPTER 140

An Act Amending Section 75-4607, R. C. M. 1947, to Reduce the Period Between Original Division and Alteration of High School Building Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-4607, R. C. M. 1947, is amended to read as follows:

Alteration of boundaries of high school districts.

"75-4607. In any county which has been divided into high school building districts, at the request of any high school board of trustees, the commission, provided for in section 75-4602, may, in accord with the procedure provided in said section, alter the boundaries of said districts or redivide the county into a different number of high school districts, provided that such alteration or redivision may not be done within *one (1) year* from the original division or the last alteration of boundaries and last redivision."

Effective April 1, 1965.

Section 2. This act is effective April 1, 1965.

Approved March 1, 1965.

CHAPTER 141

An Act Providing for Formation and Control of Joint School Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Consolidation of school districts.

Section 1. (1) Any two or more school districts that are adjacent and contiguous lying in two (2) or more counties may be consolidated, either by the formation of a new district or by the annexation of one or more districts to an existing district, as hereinafter provided.

HeinOnline -- 1965 322 1965

Meeting of boards to consider consolidation —election —notice.

When severally the boards of trustees of two (2) or more school districts, in regular meeting called for the publicly announced purpose of considering plans for consolidation of said two (2) or more districts and by majority vote of each board of trustees acting separately shall ask for district consolidation of each and all such petitioning boards, the superintendents of each county affected having jurisdiction of such districts, within not less than twenty (20) nor more than thirty (30) days, shall cause a ten (10) days' posted notice to be given by the clerk in each district seeking election on such proposed consolidation of districts. Such notice is to be posted in three (3) public places in each such district and in one (1) or more newspapers of the district or county, if there be such, giving the time and place or places specified in each notice to vote on the question of consolidation.

Petition of people —election —notice.

Consolidation of any two (2) or more school districts that are adjacent and contiguous lying in two (2) or more counties may also be effected by the people of the districts concerned whenever a petition shall be directed to and received by the county superintendents of schools of each county affected, and shall in each such district seeking consolidation be signed by no fewer than twenty per cent (20%) of the qualified electors in such district. The county superintendents shall within not less than twenty (20) nor more than thirty (30) days, cause a ten (10) days' posted notice to be given by the clerk in each district seeking election on such proposed consolidation of districts. Such notice is to be posted in three (3) public places in each such district, and in one (1) or more newspapers of the district or county, if there be such, giving the time and place or places specified in each notice to vote on the question of consolidation.

Voting— certification.

(2) The votes at such election shall be by ballot, which shall read "For consolidation" or "Against consolidation". The presiding officer at such election shall, within ten (10) days thereafter, certify the result of the vote to the county superintendents of the counties affected in which the district lies.

Majority— order—trustees.

(3) If the majority of the votes cast in each district holding such election be for consolidation, it carries, and the superintendents of each county affected, within

HeinOnline -- 1965 323 1965

ten (10) days thereafter, shall in concurrent action make proper orders to give effect to such vote, and shall thereafter transmit a copy thereof to the county clerk and recorder of each county affected and to the clerk of each district affected. If the order be for the formation of a new district, it shall specify the name and number of such district, and county superintendents of the counties affected in concurrent action shall appoint three (3) trustees to serve until the first Saturday in April succeeding.

Election of trustees.

(4) At the regular election succeeding there shall be elected by the regularly qualified electors three (3) trustees, one (1) of whom shall serve for one (1) year, one (1) for two (2) years, and one (1) for three (3) years. The election of trustees and terms shall be the same as for other districts under the general school laws.

General school laws.

(5) Consolidated school districts shall be governed by the general school laws of the state.

Bonded indebtedness.

(6) Bonded indebtedness of any district merged by consolidation shall remain the indebtedness and obligation of the district which originally incurred such bonded indebtedness and be paid by levies imposed upon property therein.

Effective April 1, 1965.

Section 2. This act is effective April 1, 1965.

Approved March 1, 1965.

CHAPTER 142

An Act Changing the Method for Computing School Tuition Payments for Mentally Retarded or Physically Handicapped Children; and Amending Section 75-5003, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-5003, R. C. M. 1947, is amended to read as follows:

Local boards of trustees —powers.

"75-5003. **Local boards of trustees—powers—determination of children requiring special education and the type of education responsibility of state superintendent—reimbursement by state—computation.** The board of

HeinOnline -- 1965 324 1965

trustees in each school district, when it appears that there are not less than ten (10) educable mentally retarded or physically handicapped children in the district, must maintain special classes for educable mentally retarded children or for physically handicapped children, (and may provide classes for the trainable mentally retarded children,) or may arrange to use the services of such approved mentally retarded or physically handicapped children's classes as may exist within the state, or may provide transportation services from home to school and return for all handicapped children enrolled in a state approved special education program of such ages as it deems wise; provided, that the local board has the right to exclude persons of low intelligence or severe delinquent behavior. The determination of the children requiring special education and the type of special education needed by these handicapped children shall not be the responsibility of local boards of trustees but shall be the responsibility of the state superintendent of public instruction in cooperation with appropriate medical, psychiatric and psychological advice listed above. Two (2) or more districts may combine to provide such educational facilities.

Determination of children requiring special education.

Reimbursements on the part of the state for such programs shall be computed on the basis of counting each such mentally retarded child in such special classes as three (3) in average number belonging, and each physically handicapped child according to a schedule to be prepared by the state superintendent of public instruction, but in no case shall it be over three (3) average number belonging for each such child, prorated according to time and number in these special classes, or in home tutoring. Transportation reimbursements shall be made on a schedule arrived at by the state superintendent of public instruction, and such expenditures shall be added to the transportation budget of the district. The state shall reimburse two-thirds of such approved transportation and the county shall reimburse the remainder of such approved transportation according to said schedule.

Reimbursement by state.

Any child who is mentally retarded, or physically handicapped, or both, who is enrolled in a state-approved elementary school special education program which is maintained by a district other than the district in which

Computation.

HeinOnline -- 1965 325 1965

such child resides, shall be included in the computation of average number belonging to the district maintaining the special education program, according to the provisions herein. The district in which such child resides shall pay to the district where such child attends an amount of tuition based on *two times* the tuition rates established in section 75-1630, and such payment shall be made in the manner prescribed by section 75-1630.

Any such child who is enrolled in a state-approved high school special education program which is maintained by a high school located in a county other than the county in which such child resides, shall be included in the computation of the average number belonging to the high school maintaining the special education program, according to the provisions herein. The county in which such child resides shall pay to the high school where such child attends an amount of tuition based on *two times* the tuition rates established in section 75-4230, and such payment shall be made in the manner prescribed by section 75-4230.

Institution supported solely by state funds.

When children are sent to an institution supported solely by funds of the state of Montana the home district or county will not be required to pay tuition for such child."

Approved March 1, 1965.

CHAPTER 143

An Act Amending Section 75-1618, R. C. M. 1947, to Require That a Person Voting at an Election of School Trustees Must be a Registered Voter.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-1618, R. C. M. 1947, is amended to read as follows:

Election of school trustees—who may vote.

"75-1618. Every citizen of the United States of the age of twenty-one years or over who has resided in the state of Montana for one year, and thirty days in the school district next preceding the election, *and who is a registered voter,* may vote thereat."

Approved March 1, 1965.

HeinOnline -- 1965 326 1965

CHAPTER 144

An Act Amending Section 4-153, R. C. M. 1947, to Require the Liquor Control Board to Maintain Written Records of Liquor Received for Sampling Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 4-153, R. C. M. 1947, is amended to read as follows: Amending clause.

"4-153. **Board members not to be interested in liquor sales—unlawful to give or receive gift, commission or remuneration.** (1) No member or employee of the board shall be directly or indirectly interested or engaged in any other business or undertaking dealing in liquor, whether as owner, part owner, partner, member of syndicate, shareholder, agent or employee, and whether for his own benefit or in a fiduciary capacity for some other person. Board members not to be interested in liquor sales.

(2) No member or employee of the board or any employee of the state shall solicit or receive directly or indirectly any commission, remuneration or gift whatsoever from any person or corporation having sold, selling or offering liquor for sale to the state or board in pursuance of this act. Unlawful to give or receive gift, commission or remuneration.

(3) No person selling or offering for sale to, or purchasing liquor from, the state or the board, shall either directly or indirectly offer to pay any commission, profit or remuneration, or make any gift to any member or employee of the board or to any employee of the state, or to anyone on behalf of such member or employee.

(4) The prohibition contained in subsection (3) of this section does not prohibit the board from receiving samples of liquor for the purpose of quality determination. The board shall maintain written records of all samples received; such records shall show the brand name, amount, from whom received, and the name of the person to whom the sample was delivered or other final disposition." Samples of liquor for quality determination —records.

Approved March 1, 1965.

CHAPTER 145

An Act Amending Section 4-407.1, R. C. M. 1947, to Change the Published Notice Requirement for Liquor License Transfers From Four to Two Weeks.

HeinOnline -- 1965 327 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 4-407.1, R. C. M. 1947, is amended to read as follows:

Notice of application —publication —protest.

"4-407.1. **Notice of application—publication—protest.** When an application has been filed with the Montana liquor control board for a license to sell liquor at retail, or to transfer such license, *the board shall* promptly publish in a newspaper of general circulation in the city, town or county from whence such application shall come, a notice that such applicant has made application for such license, and that protests against the issuance of a license to the applicant will be heard at a time stated in the notice, which shall be at a special or regular meeting of the Montana liquor control board in the city of Helena, Montana. *Notice of application for a new license shall be published once a week for four (4) consecutive weeks. Notice of application for transfer of a license shall be published once a week for two (2) consecutive weeks.* Notice may be substantially in the following form:

Form of notice.

NOTICE OF APPLICATION
FOR RETAIL LIQUOR LICENSE

Notice is hereby given that on the.....day of....., 19....., one (name of applicant) filed an application for a retail liquor license with the Montana liquor control board, to be used at (describe location of premises where license is to be sold), and protests, if any there be, against the issuance of such license will be heard at the hour of .....M, on the .....day of....., 19....., at the office of the Montana liquor control board in Helena, Montana.

Dated..... Signed.....
ADMINISTRATOR

Limitations on issuance.

No license shall be issued until on or after the date set in the notice for hearing protests. Nor shall a license under this act be issued if the said Montana liquor control board shall find from the evidence at said hearing that the welfare of the people residing in the vicinity of the place for which such license is desired will be adversely and seriously affected, or that the purposes of the Montana retail liquor license act will not be carried out by the issuance of such license. Each applicant shall, at the time

HeinOnline -- 1965 328 1965

of filing his application, pay to the Montana liquor control board, an amount sufficient to cover the costs of publishing said notice."

Approved March 1, 1965.

CHAPTER 146

An Act Providing That a Person May Not be Elected or Appointed to the Office of Senator or Representative in Congress Who Has Not Resided in the State at Least One Year Prior to His Election or Appointment.

Be it enacted by the Legislative Assembly of the State of Montana:

Requirement of residence for the office of senator or representative in the United States Congress.

Section 1. No person shall be elected or appointed to the office of senator or representative in the congress of the United States who has not resided in this state at least one year prior to his election or appointment.

Approved March 1, 1965.

CHAPTER 147

An Act to Amend Sections 75-1716, 75-1719, 75-1720, 75-4521, 75-4524 and 75-4525, Revised Codes of Montana, 1947 Relating to Emergency Budgets of School Districts and High Schools; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 75-1716, Revised Codes of Montana, 1947 be and the same is hereby amended to read as follows:

Emergency budgets —increase in enrollment.

"75-1716. **Emergency budgets.** (1) Whenever the board of trustees of a school district maintaining an elementary school or schools, at any time after December 31st of any school year, shall deem that an emergency exists by reason of an increase in the enrollment and attendance over that of the immediately preceding school year over and beyond the extent which such increase might reasonably have been anticipated at the time of the adoption of the budget for the then current school year, and

HeinOnline -- 1965 329 1965

that because of such increase in enrollment and attendance the budget approved and adopted for *any or all of the regularly budgeted funds of the school district for* the then current school year does not provide sufficient funds to properly maintain and support such school or schools during the whole of the then current school year; or shall at any time during a school year deem that an emergency exists because of the destruction of any school property necessary to the maintenance of school, or its impairment by fire, flood, storm, riot, insurrection or other act of God, to such an extent as to render it unfit or prevent its use for the school purposes for which theretofore used; or because of the entering by a court of competent jurisdiction of a judgment for damages against the district, or the enactment of legislation, after the adoption of the final budget, requiring expenditures not contemplated therein, such board of trustees by unanimous vote of all members of the board present at any meeting, the time and place of holding (of) which all of the trustees shall have had reasonable notice, may adopt and enter upon their minutes a resolution, stating the facts constituting the emergency, the estimated amount of money required to meet such emergency, and the time and place when the board will meet for the purpose of considering and adopting an emergency budget for such current school year.

Destruction or impairment of school property.

Judgment for damages or enactment of legislation—resolution—meeting—notice.

Emergency other than specified—petition state superintendent—petition to contain.

Whenever such board of trustees shall deem that an emergency exists for any reason other than those reasons specified above, such board may petition the state superintendent of public instruction for permission to adopt a resolution of emergency. Such petition shall set forth in writing the reasons for the request, the school district budget or budgets affected by the emergency, the estimated amount of money required to meet such emergency for each affected budget, the anticipated source or sources of financing for the emergency expenditures, and such other information as may be required by the superintendent of public instruction. Such petition shall be signed by all of the members of the board of trustees.

Power of state superintendent —resolution.

The state superintendent of public instruction shall have the power to approve or disapprove such petition. If such petition be approved, the board of trustees may proceed to adopt a resolution of emergency, and may subsequently take all other steps prescribed for meeting an emergency situation due to any of the causes specified above. Ap-

HeinOnline -- 1965 330 1965

proval of such petition by the superintendent of public instruction shall merely authorize the board of trustees to initiate emergency budget proceedings by resolution and shall not relieve such board of trustees of the necessity of complying with the requirements for proceeding according to the provisions of this section and all other laws pertaining to emergency budgets. Approval of such petition shall not be construed as approval of any subsequent application for increased state aid on account of such emergency.

Copy of resolution —publishing— posting—meeting.

(2) A copy of such resolution shall be published one (1) time in the newspaper of the district, most likely to give notice thereof to the people of the district concerned, and if there is no newspaper located in the district then publication shall be in the official newspaper of the county, a copy thereof shall be posted at the school house, or at each school house if there be more than one in the district, and at the post office, if there be one in the district, and a copy thereof shall be delivered to the county superintendent of schools and another copy delivered to the county clerk as clerk of the board of county commissioners of the county in which the school district is situated. The time designated in such notice for such meeting shall not be less than one (1) week after publication, posting and delivery of such copies of resolution. Such meeting shall be open to the public and any taxpayer in the district shall have the right to appear and be heard.

Meeting—finding of emergency —budget.

(3) If at such meeting a majority of the members of the board of trustees shall find that any such emergency actually exists, such board may make and adopt a preliminary emergency budget setting forth fully the facts constituting the emergency. If the emergency is due to increased enrollment and attendance the budget shall be so itemized as to show the amount appropriated therein for each item of instructional cost, maintenance of plant, operation of plant and auxiliary agencies, in the order in which such items are required to be set out in the annual budget by section 75-1703, and the total amount to be appropriated for all such items, provided that the maximum amount which may be so appropriated in such emergency budget shall be determined in the following manner; the amount appropriated in the annual budget for the maintenance and support of such school or schools for the then current school year, less amounts appro-

HeinOnline -- 1965 331 1965

priated as capital outlay for new buildings and alterations and new equipment, and reserve for the following school year, shall be divided by the number of pupils originally enrolled in such school or schools during the immediately preceding school year so as to ascertain the amount budgeted therein, less amounts appropriated for such capital outlay and reserve, for each such enrolled pupil, and such amount for each such enrolled pupil shall be multiplied by the increase in the number of pupils enrolled for the current school year over the number enrolled for the immediately preceding school year. The total amount appropriated in the emergency budget must not exceed such maximum amount.

Other emergency —budget.

(4) In the event of any other emergency described in this section, the preliminary emergency budget shall state the amount to be appropriated therein as definitely as possible the details of the proposed expenditures of the appropriation.

Funds for which an emergency budget may be adopted.

(5) The board of trustees may adopt an emergency budget for any or all of the budgeted funds of the school district, for which fund or funds a regular budget has been approved and adopted for the current year in accordance with the provisions of section 75-1712.

Emergency transportation budget to contain.

(6) Whenever the board of trustees shall prepare an emergency budget for the transportation fund, such emergency budget shall be so itemized as to show the amount appropriated therein separately for bus transportation and for payments to parents or guardians in lieu of bus transportation. The board of trustees shall attach to such emergency transportation budget a copy of each transportation contract connected with the emergency, such contracts to be prepared and executed in accordance with the provisions of section 75-3405.

Application for increased payment from the equalization fund.

(7) Whenever the board of trustees shall prepare an emergency budget for the general fund or the transportation fund, or both, due to increased enrollment, such board of trustees may make application to the state superintendent of public instruction for increased payment from the state public school equalization fund for the foundation program, or for state transportation reimbursement, or both. The state superintendent of public instruction shall prepare and publish rules and regulations for such application. The state superintendent of public instruction shall

HeinOnline -- 1965 332 1965

consider all applications for increased state aid made in accordance with the provisions of this act, and shall determine the amount of increase, if any, which shall be made in the payment of funds from the state public school equalization fund for the foundation program, or for state transportation reimbursement, or both, on account of any emergency budget due to increased enrollment. The superintendent of public instruction shall notify the board of trustees of the approval or disapproval of any application for increase in payment of state funds, and in the event of approval the budget or budgets to which such increased payment shall be applied, and the amount or amounts thereof. The board of trustees shall attach a copy of such notice of approval or disapproval to the preliminary emergency budget.

State superintendent shall consider applications and determine the increase in funds.

(8) Three (3) copies of the emergency budget shall be furnished the county superintendent of schools and such county superintendent must lay one (1) copy thereof before the board of county commissioners, which constitutes the board of school budget supervisors for the county, at the next regular meeting of such board. Such board shall have the power to make such change in such budget, if any, as it may deem proper and necessary, and shall then approve such budget, either as adopted by the board of school trustees, or as changed by the board of county commissioners."

Copies of emergency budget to be furnished.

Section 2. That section 75-1719, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Amending clause.

"75-1719. **Issuance of emergency warrants.** After the approval of such emergency budget, if the budget is to provide additional funds for the maintenance and support of the school or schools, whenever the amount appropriated for any item in the annual budget for such current school year has been fully used and such appropriation is exhausted, expenditures made thereafter shall be made by emergency warrants against the amount appropriated in the emergency budget, which emergency warrants shall be issued in the same manner and form and subject to the same conditions and provisions as set out in section 75-1726, except that on each thereof shall be distinctly endorsed 'ELEMENTARY EMERGENCY WARRANT SCHOOL DISTRICT NO.....' After deducting from the amount of money standing to the credit of the

Issuance of emergency warrants—form.

HeinOnline -- 1965 333 1965

fund of the school district *for which the emergency budget was adopted* the amount required to meet and take care of all unexpended appropriations in the annual budget *for that fund* for the current school year and *after deducting the amount required for* the reserve, *if any,* provided in such budget for the following school year, if any balance remains *in that fund* the same shall be used to pay such emergency warrants *issued against that fund,* in the order in which the same are presented for payment."

Amending clause.

Section 3. That section 75-1720, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Statement of total of emergency warrants—tax levy.

"75-1720. **Statement of total of emergency warrants —tax levy.** The county treasurer shall, not later than the first Monday in August of the following school year, make out a statement for such school district showing the total amount of such emergency warrants issued then outstanding *against any fund or funds,* and the amount of money, if any, in the *said* fund *or funds* of the school district applicable to the payment thereof, and the amount *or amounts* for the payment of which a special tax levy *or tax levies* should be made, and deliver the same to the board of county commissioners. *For each fund of the emergency budget for which an emergency levy is required as determined herein, the board of county commissioners* shall, on the second Monday in August, make and fix a levy against the taxable property in the school district which will raise sufficient funds to pay such outstanding emergency warrants, with interest thereon, and the county treasurer shall, when collected, place the *proceeds of each levy* in a special fund and use the same to pay such outstanding emergency warrants with interest thereon *as may be obligations against such fund.* If after all such emergency warrants have been paid any amount remains in *any* such special fund it shall be, by such county treasurer, transferred to the *comparable regular* fund of the school district."

Amending clause.

Section 4. That section 75-4521, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

High school budgets.

"75-4521. **High school budgets.** (1) Whenever the board of trustees of a county high school or the board of trustees of a school district maintaining a district high

HeinOnline -- 1965 334 1965

school or schools, at any time after December 31st of any school year, shall deem that an emergency exists by reason of an increase in the enrollment and attendance over that of the immediately preceding school year over and beyond the extent which such increase might reasonably have been anticipated at the time of the adoption of the budget for the then current school year, and that because of such increase in enrollment and attendance the budget approved and adopted for *any or all of the regularly budgeted funds of the high school for* the then current school year does not provide sufficient funds to properly maintain and support such school or schools during the whole of the then current school year; or shall, at any time during a school year, deem that an emergency exists because of the destruction of any school property necessary to the maintenance of school, or its impairment by fire, flood, storm, riot, insurrection, or other act of God, to such an extent as to render it unfit or prevent its use for the school purposes for which theretofore used; or because of the entering by a court of competent jurisdiction of a judgment for damages against the district, or the enactment of legislation, after the adoption of the final budget, requiring expenditures not contemplated therein, such board of trustees by unanimous vote of all members of the board present at any meeting, the time and place of holding which all of the trustees shall have had reasonable notice, may adopt and enter upon their minutes a resolution, stating the facts constituting the emergency, the estimated amount of money required to meet such emergency, and the time and place when the board will meet for the purpose of considering and adopting an emergency budget for such current school year.

Emergency other than specified—petition to contain.

Whenever such board of trustees shall deem that an emergency exists for any reason other than those reasons specified above, such board may petition the state superintendent of public instruction for permission to adopt a resolution of emergency. Such petition shall set forth in writing the reasons for the request, the high school budget or budgets affected by the emergency, the estimated amount of money required to meet such emergency for each affected budget, the anticipated source or sources of financing for the emergency expenditures, and such other information as may be required by the superintendent of public instruction. Such petition shall be signed by all of the members of the board of trustees.

HeinOnline -- 1965 335 1965

Power of state superintendent —resolution.

The state superintendent of public instruction shall have the power to approve or disapprove such petition. If such petition be approved, the board of trustees may proceed to adopt a resolution of emergency, and may subsequently take all other steps prescribed for meeting an emergency situation due to any of the causes specified above. Approval of such petition by the superintendent of public instruction shall merely authorize the board of trustees to initiate emergency budget proceedings by resolution and shall not relieve such board of trustees of the necessity of complying with the requirements for proceeding according to the provisions of this section and all other laws pertaining to emergency budgets. Approval of such petition shall not be construed as approval of any subsequent application for increased state aid on account of such emergency.

Copy of resolution —publishing —notice.

(2) A copy of such resolution shall be published one time in the official newspaper of the county, a copy thereof shall be posted at the schoolhouse if a county high school or at the district high schoolhouse, or at each such district high schoolhouse if there be more than one, and at the post office of the place or places in which the high school building or buildings may be situated, and a copy thereof shall be delivered to the county superintendent of schools and another copy delivered to the county clerk as clerk of the board of county commissioners of the county, the county superintendent of which has supervision over such county high school or district high school. The time designated in such notice for such meeting shall be not less than one week after publication, posting and delivery of such copies of resolution. Such meeting shall be open to the public and any taxpayer in the district shall have the right to appear and be heard.

Finding of emergency— preliminary budget.

(3) If at such meeting a majority of the members of the board of trustees shall find that any such emergency actually exists, such board may make and adopt a preliminary emergency budget setting forth fully the facts constituting the emergency. If the emergency is due to increased enrollment and attendance the budget shall be so itemized as to show the amount appropriated therein for each item of instructional cost, maintenance of plant, operation of plant and auxiliary agencies, in the order in which such items are required to be set out in the annual budget by section 75-1703, and the total amount to be appropriated for all such items; provided that the maxi-

HeinOnline -- 1965 336 1965

mum amount which may be so appropriated in such emergency budget shall be determined in the following manner; the amount appropriated in the annual budget for the maintenance and support of such school or schools for the then current school year, less amounts appropriated as capital outlay for new buildings and alterations and new equipment, and reserve for the following school year, shall be divided by the number of pupils originally enrolled in such school or schools during the immediately preceding school year so as to ascertain the amount budgeted therein, less amounts appropriated for such capital outlay and reserve, for each such enrolled pupil, and such amount for each such enrolled pupil shall be multiplied by the increase in the number of pupils enrolled for the current school year over the number enrolled for the immediately preceding school year. The total amount appropriated in the emergency budget must not exceed such maximum amount.

Determination of maximum emergency budget.

(4) In the event of any other emergency described in this section the preliminary emergency budget shall state the amount to be appropriated therein, and as definitely as possible the details of the proposed expenditure of the appropriation.

Other emergency.

(5) *The board of trustees may adopt an emergency budget for any or all of the budgeted funds of the high school, for which fund or funds a regular budget has been approved and adopted for the current year in accordance with the provisions of section 75-4517.*

Funds for which a budget may be adopted.

(6) Whenever the board of trustees shall prepare an emergency budget for the transportation fund, such emergency budget shall be so itemized as to show the amount appropriated therein, separately for bus transportation and for payments to parents or guardians in lieu of bus transportation. The board of trustees shall attach to such emergency transportation budget a copy of each transportation contract connected with the emergency, such contracts to be prepared and executed in accordance with the provisions of section 75-3405.

Emregency budget for transportation fund to contain.

(7) Whenever the board of trustees shall prepare an emergency budget for the general fund or the transportation fund, or both, due to increased enrollment, such board of trustees may make application to the state superintendent of public instruction for increased payment from the

Application for increased payment from the equalization fund.

HeinOnline -- 1965 337 1965

state public school equalization fund for the foundation program, or for state transportation reimbursement, or both. The state superintendent of public instruction shall prepare and publish rules and regulations for such application. The state superintendent of public instruction shall consider all applications for increased state aid made in accordance with the provisions of this act, and shall determine the amount of increase, if any, which shall be made in the payment of funds from the state public school equalization fund for the foundation program, or for state transportation reimbursement, or both, on account of any emergency budget due to increased enrollment. The superintendent of public instruction shall notify the board of trustees of the approval or disapproval of any application for increase in payment of state funds, and in the event of approval the budget or budgets to which such increased payment shall be applied, and the amount or amounts thereof. The board of trustees shall attach a copy of such notice of approval or disapproval to the preliminary emergency budget.

Copies of emergency budget shall be furnished.

(8) Three copies of the emergency budget shall be furnished the county superintendent of schools and such county superintendent must lay one copy thereof before the board of county commissioners, which constitutes the board of school budget supervisors for the county, at the next regular meeting of such board. Such board shall have the power to make such changes in such budget, if any, as it may deem proper and necessary, and shall then approve such budget, either as adopted by the board of school trustees, or as *changed* by the board of county commissioners.

Amending clause.

Section 5. That section 75-4524, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Emergency warrants—form.

"75-4524. **Emergency warrants.** After the approval of such emergency budgets, if the budget is to provide additional funds for the maintenance and support of the high school or schools, whenever the amount appropriated for any such item in the annual high school budget for such current school year has been fully used and such appropriation is exhausted, expenditures made thereafter shall be made by emergency warrants against the amount appropriated in the emergency budget, which emergency

HeinOnline -- 1965 338 1965

warrants shall be issued in the same manner and form and subject to the same conditions and provisions as set out in section 75-4531, except that on each thereof shall be distinctly endorsed 'COUNTY HIGH SCHOOL EMERGENCY WARRANT' or 'HIGH SCHOOL WARRANT SCHOOL DISTRICT NO.....' After deducting from the amount of money standing to the credit of the fund of the high school *for which the emergency budget was adopted* the amount required to meet and take care of all unexpended appropriations in the annual budget *for that fund* for the current school year and *after deducting the amount required for* reserve, *if any,* provided in such budget for the following school year, if any balance remains *in that fund* the same shall be used to pay such emergency warrants *issued against that fund,* in the order in which the same are presented for payment."

Amending clause.

Section 6. That section 75-4525, Revised Codes of Montana, 1947 be and the same is hereby amended to read as follows:

Tax levy to pay emergency warrants.

"75-4525. **Tax levy to pay emergency warrants.** The county treasurer shall, not later than the first Monday in August of the following school year, make out a statement for such county high school or school district showing the total amount of such emergency warrants issued then outstanding *against any fund or funds,* and the amount of money, if any, on hand *in the said fund or funds of the high school* applicable to the payment thereof, and the amount *or amounts* for the payment of which a special tax levy *or tax levies* should be made, and deliver the same to the board of county commissioners. *For each fund of the emergency budget for which an emergency levy is required as determined herein, the board of county commissioners* shall, on the second Monday in August, make and fix a levy against the taxable property *designated for the support of the high school* which will raise sufficient funds to pay such outstanding emergency warrants, with interest thereon, and the county treasurer shall, when collected, place the *proceeds of each levy* in a special fund and use the same to pay such outstanding emergency warrants with interest thereon *as may be obligations against such fund.* If after all such emergency warrants have been paid any amount remains in *any* such special fund it shall be, by such county treasurer, transferred to the *comparable*

HeinOnline -- 1965 339 1965

regular fund of the county high school or district high school."

Repealing clause.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 2, 1965.

CHAPTER 148

An Act Defining Master Electricians, Journeyman Electricians, and Electrical Contractors, and Setting Forth the Qualifications, Examination and Licensing of Each; Adopting a Code of Standards; Providing for Certain Exceptions; Establishing a State Electrical Board; Providing for Appointment of State Electrical Inspectors; Providing for the Issuance of Licenses and Temporary Permits and Inspection Fees; Providing for License Examination; Providing for Disposition of Fees; Providing a Penalty; Repealing Sections 16-1180 and 16-1181; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Electrical safety law.

Section 1. This act is to be known and referred to as the electrical safety law.

Purpose.

Section 2. **Purpose.** The purpose of this act is to protect the health and safety of the people of Montana from the danger of electrically caused shocks, fires and explosions and to protect property from the hazard of electrically caused fires and explosions, and to establish a procedure for determining where and by whom electrical installations are to be made and to assure the public that persons making electrical installations are qualified, and that the electrical installations and electrical products made and sold within this state meet minimum safety standards. From and after the taking effect of this act, all installations in the state of Montana of wires and equipment to convey electric current and installations of apparatus to be operated by such current, except as hereinafter provided, shall be made substantially in accord with the National Electrical Code, as approved by the American standards association, relating to such work as far as the same covers both fire and personal injury hazards, and as the National Electrical Code shall be

National electrical code.

HeinOnline -- 1965 340 1965

amended, revised, compiled and published from time to time and as such amendments or revisions are adopted by the board.

Definitions—"Master electrician."

Section 3. **Definitions.** (a) The term "master electrician" means a person having the necessary qualifications, training, experience and technical knowledge to properly plan, lay out and supervise the installation and repair of wiring apparatus and equipment for electric light, heat, power, and other purposes in accordance with standard rules and regulations governing such work.

"Journeyman electrician."

(b) The term "journeyman electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to wire for, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes, in accordance with standard rules and regulations governing such work.

"Electrical contractor."

(c) The term "electrical contractor" means any person, firm, copartnership, corporation, association, or combination thereof, who undertakes or offers to undertake for another the planning, laying out, supervising, and installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment for electric light, heat, and power. A registered electrical engineer who plans or designs electrical installations shall not be classed as an electrical contractor.

State electrical board—members—qualifications—compensation.

Section 4. **State electrical board.** There is hereby established a state electrical board which shall consist of three members, appointed by the governor, with the consent of the senate, who shall be residents of the state of Montana. One of said members shall be an electrical contractor, one shall be a journeyman electrician, and one shall be appointed from the public at large. The original members of the board shall be appointed within twenty (20) days after the effective date of this act for one (1), two (2), and three (3) years, respectively, as determined by the governor, and all appointments thereafter shall be for a term of three (3) years. Any vacancy occurring in the membership of the board shall be filled by the governor by appointment for the unexpired term of such member. Each member of the board shall receive the actual and necessary expenses incurred in the performance of his duties, all to be paid out of the electricians' fund herein created.

HeinOnline -- 1965 341 1965

Oath.

Section 5. **Oath — meetings — powers.** (a) Each member of the board, before entering on the discharge of his duties, and within thirty (30) days from the effective date of his appointment, shall subscribe to an oath for the faithful performance of duty before any officer authorized to administer oaths in this state and shall file the same with the secretary of state.

Meetings—election of officers.

(b) The board shall, within thirty (30) days after July 1, 1965, and annually thereafter in the month of July, elect from the membership thereof a president, vice president and a secretary-treasurer. The board shall meet quarterly and at such other times as it shall deem necessary.

Powers.

(c) The board is authorized and empowered to:

Rules and regulations —licensing —inspections.

(i) Prescribe, amend and enforce rules and regulations consistent with this act for the administration of this act and to effectuate the purposes thereof, and for the licensing of electrical contractors and the examination and licensing of journeymen electricians, and to make inspections of electrical installations, and to issue inspection tags covering such installations, and to establish and charge a reasonable and uniform schedule of fees therefor, which shall not exceed the expenses of providing such inspection service. Individuals, firms, co-operatives, corporations, or municipalities selling electricity hereinafter known as a power supplier, shall not connect with or energize any electrical installation, coming under the provisions of this act, unless the owner or a licensed electrical contractor has delivered to the power supplier an inspection tag, issued by the board except in cities or towns that have no inspection facilities, covering the installation to be energized. Immediately after an installation has been energized, the power supplier shall deliver to the board or its authorized agent, the inspection tag covering such installation except in cities or towns having no inspection facilities. It shall be unlawful for any person, partnership, company, firm, association or corporation other than a power supplier, to energize any electrical installation coming under the provisions of this act unless an application for an electrical inspection tag, covering such installation, together with the inspection fee herein provided, has been forwarded to the board except in cities or towns having no inspection facilities:

Inspection tag.

Unlawful to energize unauthorized installation —exception.

HeinOnline -- 1965 342 1965

(ii) Adopt a seal, and the secretary shall have the care and custody thereof; Seal.

(iii) Examine, license, and renew the licenses of duly qualified applicants for electrical contractor, journeyman electrician or master electrician as provided in this article; Licenses.

(iv) Cause the prosecution and enjoinder of all persons violating this article and incur necessary expenses therefor; Violations.

(v) Employ such technical, clerical, or other assistance as is necessary for the proper performance of its work. Assistance.

Section 6. **Electrician must have license.** No person shall engage in or work at the business, trade, or calling of electrical contractor, journeyman electrician or master electrician in this state, until he shall have received from the state electrical board and license or permit to work as an electrical contractor, journeyman electrician or master electrician. Electrician must have license.

Section 7. **License requirements.** (a) An applicant for a master electrician's license shall furnish written evidence that he is a graduate electrical engineer of an accredited college or university and has one year of practical electrical experience, or that he is a graduate of an electrical trade school and has at least four years of practical experience in electrical work, or that he has had at least five years' practical experience in planning, laying out, supervising, or installing wiring, apparatus, or equipment for electrical light, heat, and power. Applicants for license as a master electrician shall file an application on forms prepared and furnished by the state electrical board, together with the examination fee. The board shall, not less than thirty days prior to a scheduled written examination, notify each applicant that the evidence submitted with his application is sufficient to qualify him to take such written examination or that such evidence is insufficient and is rejected and in the event the application is rejected the board shall set forth the reasons therefor in the notice to the applicant, and shall forthwith return such applicant's examination fee. The place of examinations shall be designated in advance by the board and examinations shall be held not less often than once a License requirements—master electrician.

HeinOnline -- 1965 343 1965

year and at such other times as, in the opinion of the board, the number of applicants warrants.

Written examination —to contain.

(b) The written examination shall consist of at least thirty (30) questions designed to fairly test the applicant's knowledge and the technical application thereof in the following subjects:

(i) The national electrical code;

(ii) Cost estimating for electrical installments;

(iii) Procurement and handling of materials needed for electrical installations and repair;

(iv) Reading of blue prints for electrical work;

(v) Drafting and layout of electrical circuits;

(vi) Knowledge of practical electrical theory.

License— evidence of.

(c) An applicant for a journeyman electrician's license shall furnish written evidence that he has had at least four (4) years apprenticeship in the electrical trade or four (4) years practical experience in the wiring for, installing, and repairing electrical apparatus and equipment for light, heat, and power. Applications for license and notice to the applicant shall be made and given as provided for in the case of master electricians' licenses.

Journeyman's license— examination.

(d) The written examination for a journeyman's license shall consist of at least thirty (30) questions designed to fairly test the applicant's knowledge and the technical application thereof in the following subjects:

(i) The Ohms law;

(ii) The National Electrical Code;

(iii) Layout and practical installation of electrical circuits.

Grading of examination.

(e) To insure impartiality, the examination shall be by numbers which shall be drawn by lot, and no paper shall be marked in the name of any applicant but shall be anonymously graded by the board. The examination passing grade shall be seventy-five per cent (75%) of perfection. If it shall be determined that the applicant has passed the examination, the secretary, upon payment by the applicant of the fee, shall issue to the applicant a license which shall authorize him to engage in the busi-

HeinOnline -- 1965 344 1965

ness, trade, or calling of a journeyman electrician or master electrician. Each such original license shall by its terms expire on the fifteenth day of July which is at least one (1) year but not more than two (2) years subsequent to the date of issuance.

Renewal of licenses.

(f) All licenses of journeyman electricians or master electricians, unless such licenses have been suspended or revoked by the board, shall be renewed for a period of one (1) year by the board upon application for such renewal being made to the board prior to the fifteenth day of July of the year in which the prior license expired and upon the payment of an annual renewal fee. If application for renewal is not made prior to said fifteenth day of July, an additional fee of five dollars ($5) shall be paid on account of such delinquency in renewal; but all such applications for renewal must be made prior to the fifteenth day of August of that year, otherwise the license shall be forfeited, and such applicant shall be required to pass the examination and pay the fees required of applicants for original licenses.

Unauthorized use of title.

Section 8. **Unauthorized use of title.** No person, firm, partnership, corporation or association shall assume or use the title or designation of licensed master electrician or licensed journeyman electrician unless qualified and licensed under this act.

License to nonresidents—reciprocity.

Section 9. **License to nonresidents—reciprocity.** To the extent that other states which provide for the licensing of electricians provide for similar action, the state electrical board may grant licenses to electricians licensed by such other states, upon payment by the applicant of the required fee and upon furnishing proof to the board that the applicant has qualifications at least equal to those provided herein for applicants for written examinations. Applicants who qualify for a license under this section are not required to take a written examination.

Temporary permits.

Section 10. **Temporary permits.** The state electrical board may issue temporary permits to engage in the work of a master electrician or journeyman electrician to any applicant who furnishes evidence satisfactory to the board that he has the required experience to qualify for the examination provided in this article and who pays the fee. Temporary permits shall continue in effect only until

HeinOnline -- 1965 345 1965

the next examination is given and may be revoked by the board at any time. If the applicant is granted a license, any fee paid for the temporary permit shall be applied to the fee required for a license.

License without written examination.

Section 11. **License without written examination.** The state electrical board may issue a license as a master electrician or journeyman electrician to any applicant without written examination upon satisfactory proof that said applicant has the qualifications to apply for a license under this act and is the holder of a valid license issued by any city or other political subdivision of the state providing for the examination and licensing of electricians.

Exemptions—communications—electrical public utility.

Section 12. **Exemptions.** (a) Nothing in this act shall be deemed to apply to the installation or maintenance of communication circuits, wires and apparatus; nor to any electrical public utility, or its employees, in the installation and maintenance of electrical wiring, circuits, apparatus and equipment by or for such public utility, or comprising a part of its plants, lines or system. The licensing provisions of this act shall not apply to persons making electrical installations on their own property or to regularly employed maintenance electricians working on the premises of their employer.

Individual on his own property.

(b) Nothing in the article shall be construed to require any individual to hold a license before doing electrical work on his own property.

Apprentice.

(c) Any person may work as an apprentice to a licensed electrician but shall not do any electrical wiring for or installation of electrical apparatus or equipment for light, heat, or power, except with and under the direct supervision of a licensed electrician.

Electrical contractor.

(d) An individual, firm, copartnership, or corporation may engage in business as an electrical contractor without an electrician's license if all electrical work performed by such individual, firm, copartnership, or corporation is under the direction and control of a licensed master electrician.

Electrical appliances.

(e) Any person who plugs in an electrical appliance where approved electrical outlet is already installed shall not be considered as an installer.

HeinOnline -- 1965 346 1965

(f) No provisions of this article shall in any manner interfere with, hamper, preclude or prohibit any vendor of any electrical appliance, from selling, delivering and connecting any electrical appliance, if the connection of said appliance does not necessitate the installation of electrical wiring of the structure where said appliance is connected. Selling, delivering and connecting appliances.

Section 13. **Appeals.** Any person aggrieved by a decision of the board, and affected thereby, shall be entitled to judicial review by filing in the district court of the county of his residence or in the district court of the county of Lewis and Clark, within ninety (90) days after the decision of the board, an action requesting such review. Review shall be by trial as in other civil cases, de novo. Appeals.

Section 14. **Fees.** Each electrical contractor shall on or before the first day of July of each year, file with the state electrical board an application in writing for each firm operated by him in Montana to obtain a license therefor. No license shall be issued until the applicant meets the requirements and has paid to the state electrical board a license fee of seventy-five dollars ($75) for each firm operated by him. All licenses shall bear the date of issue and shall expire on the first day of July next following the date of issue. Every electrical contractor licensed under the provisions of this act shall be entitled to have his license renewed for the ensuing year, upon the expiration of his license, by the payment to the state electrical board of a fee of seventy-five dollars ($75) on or before the date of expiration of such license. Fees. $75.00.

Section 15. **Examination fees.** (a) All master electricians not being electrical contractors and all journeyman electricians performing work or intending to perform work for hire of installing electric wiring or equipment to convey electric current, or installing apparatus to be operated by such current, shall, within sixty (60) days after the first day of July, 1965, make application for a license to the state electrical board. The application shall be on a form furnished by the state electrical board and be accompanied by an examination fee of ten dollars ($10). The forms shall state the applicant's full name, his address, the extent of his experience, and such other information as may be required by the state elec- Examination fees. $10.00

HeinOnline -- 1965 347 1965

trical board. Upon applicant's complying with the rules and requirements promulgated by the state electrical board and, being qualified, successfully completes the examination, he shall pay to the state electrical board an annual license fee of twenty-five dollars ($25) for a master electrician's license; ten dollars ($10) for a journeyman electrician's license, and upon receipt thereof, he shall be issued the proper license by said board. Any person serving a four (4) year electrician apprenticeship under the supervision of a licensed electrician shall be exempt from the licensing provision of this paragraph during training. Provided, however, that credit for the time spent in any electrical school shall be given to the master electrician, journeyman electrician or apprentice for the time spent in said classes, up to a total of two (2) years on the aforementioned four (4) year requirement.

$25.00.

$10.00.

Licensing of those presently qualified.

Section 16. **Licensing of those presently qualified.** Montana resident electricians who, prior to the effective date of this act, have had at least four (4) years practical experience in installing electric wires and equipment covered by the National Electrical Code shall not be required to take the examination, but shall be issued a license by the board upon payment of the proper license fee and furnishing of proof satisfactory to the board of such four (4) years' experience; provided, such application is made within sixty (60) days after July 1, 1965. All Montana resident contractors doing business on the effective date of this act shall be qualified to receive said license if application is made within the time provided herein.

Apprentices—rules and regulations—record kept by state board.

Section 17. **Apprentices — rules and regulations — record kept by state board.** Nothing in this act shall prohibit any person from working as an apprentice in said trade of electrician with an electrician duly licensed by said board as herein provided for, and under such rules and regulations as may be prescribed from time to time by the state electrical board; provided, the name and residence of each apprentice, and the names and residences of their employers, shall be duly filed with said board, and a record shall be kept by said board, showing the names and residences of such apprentices.

Municipal ordinances for electrical standards —authority.

Section 18. **Municipal ordinances for electrical standards—authority.** Any municipality of the state of Montana may by ordinance adopt rules and regulations gov-

HeinOnline -- 1965 348 1965

erning electrical installations within its corporate limits, but the standards provided for therein shall not be less nor lower than the minimum standards provided for them in the state electrical code.

Disposition of fees.

Section 19. **Disposition of fees.** All monies received under this act shall be deposited with the state treasurer and credited to an account to be designated by the state treasurer as the proper account for the fund hereby created. No money shall be paid out of said fund except upon voucher drawn against said fund, signed and certified to by the secretary of the board. All funds so credited shall be available to the state electrical board for the payment of salaries and expenses incurred by it in the performance of its duties under this act.

Violations —penalty.

Section 20. **Violations—penalty.** Any person or corporation violating any provision of this act shall upon conviction thereof, if a person, be punished by a fine not more than five hundred dollars ($500), or by imprisonment for a term not to exceed six (6) months, or by revocation of his license or by such fine, imprisonment and revocation, in the discretion of the court; and if a corporation, be punished by a fine of not more than one thousand dollars ($1,000). Any officer or agent of a corporation, or member or agent of a co-partnership or association, who shall personally participate in or be accessory to any violation of this act by such co-partnership, association, corporation, shall be subject to the penalties herein prescribed for individuals.

Repealing clause.

Section 21. **Repealing clause.** Sections 16-1180 and 16-1181, Revised Codes of Montana, 1947, and all acts and parts of acts in conflict herewith are hereby repealed.

Effective July 1, 1965.

Section 22. This act shall be in full force and effect from and after the 1st day of July, 1965.

Approved March 2, 1965.

CHAPTER 149

An Act Amending Section 92-701, Revised Codes of Montana, 1947, as Last Amended by Chapter 162, Laws of Montana, 1961, and Amending Section 92-702, Revised Codes of Montana, 1947, as Last Amended by Chapter

HeinOnline -- 1965 349 1965

162, Laws of Montana, 1961, and Amending Section 92-703, Revised Codes of Montana, 1947, as Last Amended by Chapter 162, Laws of Montana, 1961, and Amending Section 92-704, Revised Codes of Montana, 1947, as Last Amended by Chapter 162, Laws of Montana, 1961, and Amending Section 92-709, Revised Codes of Montana, 1947, as Last Amended by Chapter 162, Laws of Montana, 1961, All Relating to Increases in Workmen's Compensation and Benefits for Temporary Total, Permanent Total, or Partial Disabilities, Injury Causing Death, and Specified Injuries; and Length of Time for Benefits for Injured Causing Death; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 92-701, Revised Codes of Montana, 1947, as last amended by Chapter 162, laws of Montana, 1961, be and the same is hereby amended to read as follows:

Compensation—temporary total disability.

"92-701. **Compensation for injury producing temporary total disability.** Where the injured employee has no wife, child, father, mother, brother, or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *thirty-five dollars ($35.00)* per week; where the injured employee has a wife, or child, or father or mother, or brother or sister residing within the United States, who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty-two dollars ($42.00)* per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death,

HeinOnline -- 1965 350 1965

sixty-two and one-half per centum (62½%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty-six dollars ($46.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the weekly wages received at the time of his injury, subject to a maximum compensation of *fifty-one dollars ($51.00)* per week; where the injured employee has a wife and four (4) or more children, or five (5) or more children residing in the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66-2/3%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *fifty-six dollars ($56.00)* per week, and subject in all cases to a minimum compensation of *thirty-one and 50/100 dollars ($31.50)* per week, and subject to change when the number of beneficiaries or dependents increases by birth, or decreases. Such compensation shall be paid during the period of disability, but for the period not exceeding three hundred (300) weeks from the date of injury."

Amending clause.

Section 2. That section 92-702, Revised Codes of Montana, 1947, as last amended by chapter 162, laws of Montana, 1961, be and the same is hereby amended to read as follows:

Compensation—total permanent disability.

"92-702. **Compensation for injury producing total disability permanent in character.** Where the injured employee has no wife, child, father, mother, brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *thirty-five dollars ($35.00)* per week; where the injured employee has a wife, or child, or father, or mother, or brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters, residing within the United States who

HeinOnline -- 1965 351 1965

would be entitled to compensation in case of his death, sixty per centum (60%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty-two dollars ($42.00)* per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty-six dollars ($46.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *fifty-one dollars ($51.00)* per week; where the injured employee has a wife and four (4) children, or five (5) or more children residing within the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66-2/3%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *fifty-six dollars ($56.00)* per week; and subject in all cases to a minimum compensation of *thirty-one and 50/100 dollars ($31.50)* per week; and subject to change when the number of beneficiaries or dependents increases by birth, or decreases. Such compensation shall be paid during the period of disability, but for the period not exceeding five hundred (500) weeks from the date of injury."

Amending clause.

Section 3. That section 92-703, Revised Codes of Montana, 1947, as last amended by chapter 162, laws of Montana, 1961, be and the same is hereby amended to read as follows:

Compensation—partial disability.

"92-703. **For partial disability.** Where the injured employee has no wife, child, father, mother, brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *thirty-five dollars ($35.00)* per week; where the injured employee has a wife, or child, or father, or mother, or brother or sister residing within the United States who would be entitled to compensation in

HeinOnline -- 1965 352 1965

case of his death, fifty-five per centum (55%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *forty-two dollars ($42.00)* per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *forty-six dollars ($46.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *fifty-one dollars ($51.00)* per week; where the injured employee has a wife and four (4) or more children, or five (5) or more children residing within the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66-2/3%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *fifty-six dollars ($56.00)* per week; not exceeding however, the maximum compensation allowed in cases of total disability, and not exceeding in amount or duration the total compensation provided in the act for the total loss of the member causing such partial disability. Such compensation shall be paid during the period of disability, not exceeding however, five hundred (500) weeks in cases of permanent partial disability, and fifty (50) weeks in cases of temporary partial disability, subject to change

HeinOnline -- 1965 353 1965

when the number of dependents increases by birth, or decreases, provided, however, that compensation for partial disability resulting from the loss of or injury to any member shall not be payable for a greater number of weeks than is specified in section 92-709 for the loss of such member."

Amending clause.

Section 4. That section 92-704, Revised Codes of Montana, 1947, as last amended by chapter 162, laws of Montana, 1961, be and the same is hereby amended to read as follows:

Compensation —death.

"92-704. **Compensation for injury causing death.** For beneficiaries residing within the United States: Where decedent leaves one (1) beneficiary, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-five dollars ($35.00)* per week; where decedent leaves two (2) beneficiaries, fifty-five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week; where decedent leaves three (3) beneficiaries, sixty per centum (60%) of the wages received at the time of the injury subject to a maximum compensation of *forty-two dollars ($42.00)* per week; where decedent leaves four (4) beneficiaries, sixty-two and one-half (62½%) of the wages received at the time of the injury, subject to a maximum compensation of *forty-six dollars ($46.00)* per week; where decedent leaves five (5) beneficiaries, sixty-five per centum (65%) of the wages received at the time of the injury, subject to a maximum compensation of *fifty-one dollars ($51.00)* per week; where decedent leaves six (6) or more beneficiaries, sixty-six and two-thirds per centum (66-2/3%) of the wages received at the time of the injury, subject to a maximum compensation of *fifty-six dollars ($56.00)* per week; and subject in all such cases to a minimum compensation of *thirty-one and 50/100 dollars ($31.50)* per week.

For beneficiaries residing outside of the United States: Where decedent leaves one (1) beneficiary, forty per centum (40%) of the compensation which would be payable to such beneficiary, if residing within the United States; where decedent leaves two (2) beneficiaries, forty-five per centum (45%) of the compensation which would be payable to such beneficiaries, if residing within

HeinOnline -- 1965 354 1965

the United States; where decedent leaves three (3) beneficiaries, forty-seven and one-half per centum (47½%) of the compensation which would be payable to such beneficiaries, if residing within the United States; where decedent leaves four (4) or more beneficiaries, fifty per centum (50%) of the compensation which would be payable to such beneficiaries, if residing within the United States.

If decedent leaves no beneficiaries, then compensation shall be payable as follows: To his major dependents, if any, residing in the United States at the date of the happening of the injury; where decedent leaves one (1) major dependent, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-five dollars ($35.00)* per week; where decedent leaves two (2) major dependents, fifty-five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week.

If the decedent leaves no major dependents, compensation shall be payable to his minor dependents, if any, if residing within the United States at the time of the happening of the injury, as follows: Where decedent leaves one (1) minor dependent, thirty per centum (30%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-five dollars ($35.00)* per week; where decedent leaves two (2) minor dependents, thirty-five per centum (35%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week; where decedent leaves three (3) or more minor dependents, forty per centum (40%) of the wages received at the time of the injury, subject to a maximum compensation of *forty-six dollars ($46.00)* per week.

If the decedent leaves no major or minor dependents a lump sum in the amount of three thousand and no/100 dollars ($3,000.00) shall be payable to his surviving parent or parents.

All such payments of compensation provided for in this section shall be subject to a maximum compensation of *fifty-six dollars ($56.00)* per week for a period not exceeding five hundred (500) weeks and subject to change when the number of beneficiaries or dependents increases

HeinOnline -- 1965 355 1965

by birth, or decreases, and provided, further, that compensation payable to major or minor dependents shall not exceed the amount of the dependency."

Amending clause.

Section 5. That section 92-709, Revised Codes of Montana, 1947, as last amended by chapter 162, laws of Montana, 1961, be and the same is hereby amended to read as follows:

Compensation—specified injuries.

"92-709. **Compensation in case of specified injuries.** In case of the following specified injuries, the compensation in lieu of any other compensation provided by this act, shall be as follows: Where the injured employee has no wife, child, father, mother, brother, or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-five dollars ($35.00)* per week; where the injured employee has a wife, or child, or father or mother, or brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the wages received at the time of the injury, subject to a maximum compensation of *forty-two dollars ($42.00)* per week; where the injured employee has a wife and two (2) children or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the wages received at the time of injury, subject to a maximum compensation of *forty-six dollars ($46.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the wages received at the time of the injury, subject to a maximum compensation of *fifty-one dollars ($51.00)* per week; where the injured employee has a wife and four (4) or more children, or five (5) or more children residing within the United States who would be entitled to com-

HeinOnline -- 1965 356 1965

pensation in case of his death, sixty-six and two-thirds per centum (66-2/3%) of the wages received at the time of the injury, subject to a maximum compensation of *fifty-six dollars ($56.00)* per week, subject to change when the number of beneficiaries or dependents increases by birth, or decreases, and subject in all cases to a minimum compensation of *thirty-one and 50/100 dollars ($31.50)* per week, and shall be paid for the following periods:

For loss of:

One arm at or near shoulder	280 weeks
One arm at the elbow	240 weeks
One arm between wrist and elbow	220 weeks
One hand	200 weeks
One thumb and the metacarpal bone thereof	75 weeks
One thumb at the proximal joint	37 weeks
One thumb at the second distal joint	25 weeks
One first finger and the metacarpal bone thereof	40 weeks
One first finger at the proximal joint	30 weeks
One first finger at the second joint	22 weeks
One first finger at the distal joint	15 weeks
One second finger and the metacarpal bone thereof	37 weeks
One second finger at the proximal joint	20 weeks
One second finger at the second joint	15 weeks
One second finger at the distal joint	8 weeks
One third finger and the metacarpal bone thereof	25 weeks
One third finger at the proximal joint	15 weeks
One third finger at the second joint	10 weeks
One third finger at the distal joint	5 weeks
One fourth finger and the metacarpal bone thereof	15 weeks
One fourth finger at the proximal joint	11 weeks
One fourth finger at the second joint	8 weeks
One fourth finger at the distal joint	6 weeks
One leg at or near the hip joint as to preclude the use of an artificial limb	300 weeks
One leg at or above the knee where stump remains sufficient to permit the use of an artificial limb	200 weeks
One leg between knee and ankle	190 weeks
One foot at the ankle	180 weeks
One great toe with the metatarsal bone thereof	37 weeks

HeinOnline -- 1965 357 1965

One great toe at the proximal joint	18 weeks
One great toe at the second joint	12 weeks
One toe other than the great toe with the metatarsal bone thereof	16 weeks
One toe other than the great toe at the proximal joint	8 weeks
One toe other than the great toe at second or distal joint	5 weeks
One eye by enucleation	165 weeks
Total blindness of one eye	140 weeks
Total loss of hearing, one ear	40 weeks
Total loss of hearing, both ears	200 weeks

Loss of vision: Where central visual acuity does not exceed 20/200 in the better eye with correcting lenses of the widest diameter of the visual field subtends an angle no greater than 20 degrees, the same as for loss of the eye.

Total loss of use: Indemnity benefits for permanent total loss of use of a member shall be the same as for loss of the member.

Partial loss or partial loss of use: Indemnity benefits for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member.

In any case in which there shall be a loss, or loss of use, of more than one member as set forth in this section, not amounting to permanent total disability, the award of indemnity benefits shall be for the loss, or loss of use thereof, which awards shall run consecutively, provided, however, that the total award or compensation in no case shall exceed five hundred (500) weeks.

Disfigurement: The board may award proper and equitable indemnity benefits for serious face, head, or neck disfigurement, not to exceed twenty-five hundred dollars ($2,500.00) in addition to any other indemnity benefits payable under this section.

The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two (2) thereof, in one (1) accident, in the absence of conclusive proof to the contrary shall constitute total disability, permanent in character. Provided, however, that the percentage of permanent disability caused by any single accident or injury shall be so computed as to cover the permanent

HeinOnline -- 1965 358 1965

disability caused by that particular injury without reference to any previous physical ailment or defect or to any injury previously suffered or any permanent disability caused thereby; provided, that no payment under this section shall be in lieu of the separate benefit of medical and hospital services."

Amending clause.

Section 6. That section 92-418, Revised Codes of Montana, 1947, as last amended by chapter 162, laws of Montana, 1961, be and the same is hereby amended to read as follows:

"Injury" and "injured" defined.

"92-418. **Injury or injured defined.** 'Injury' or 'injured' means a tangible happening of a traumatic nature from an unexpected cause, resulting in either external or internal physical harm, and such physical condition as a result therefrom and excluding disease not traceable to injury."

Amending clause.

Section 7. That section 92-834, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Appeal—notice —record—trial.

"92-834. **How appeal taken — notice — record — trial.** Said appeal shall be taken by serving a written notice of said appeal upon the chairman of such industrial accident commission, or upon any other member thereof, which said service shall be made by the delivery of a copy of such notice to such chairman or member, and filing the original with the clerk of the court to which said appeal is taken. A copy of such notice must also be served upon the adversary party, if there be any, by mailing the same to said adversary party to such address of such party as said party shall have left with the board. If such party shall have left no address with the board, then no service upon such party shall be required. The order of filing and service of said notice is immaterial. Immediately upon service upon said board of said notice, the said board shall certify to said district court the entire record and proceedings, including all testimony and evidence taken by said board, with the clerk of said district court. Immediately upon the return of such certified record, the district court shall fix a day for the hearing of said cause, and shall cause notice to be served upon the board and upon the appellant, and also upon the adversary party, if there be any. The court may, upon the hearing, for good cause shown, permit additional evidence

HeinOnline -- 1965 359 1965

to be introduced, but, in the absence of such permission from the court, the cause shall be heard on the record of the board, as certified to the court by it. The trial of the matter shall be de novo, and upon such trial the court shall determine whether or not the board regularly pursued its authority, and whether or not the findings of the board ought to be sustained, and whether or not such findings are reasonable under all the circumstances of the case."

Repealing clause.

Section 8. All acts and parts of acts in conflict herewith are hereby repealed.

Effective July 1, 1965.

Section 9. This act shall be in full force and effect from and after the 1st day of July, 1965.

Approved March 2, 1965.

CHAPTER 150

An Act to Amend Section 77-909 of the Revised Codes of Montana, 1947, as Amended by Chapter 141, Section 1, Laws of 1957, Relating to Providing Educational Opportunities in the Units of the Greater Universities of Montana for the Children of Members of the Armed Forces of the United States Killed While in the Armed Forces of the United States or Dying as a Result of a Disability or Disease Incurred While in Said Service During World War II and/or the Korean Conflict; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 77-909 of the Revised Codes of Montana, 1947, as amended by chapter 141, section 1, laws of 1957, be amended to read as follows:

War orphans' attendance without fees.

"77-909. **War orphans' attendance to be without fees.** There shall be established under this act the authority of the state board of education to waive, the charges for the matriculation, tuition, any and all educational fees, for such children of members of the armed forces of the United States who served on active duty during World War II and/or the Korean conflict and who, at the time of entry into such service, had legal residence in this state

HeinOnline -- 1965 360 1965

and who were heretofore, or shall hereafter be, either killed in action or shall have died as a result of injury, disease, or other disability incurred while in the service of the armed forces of the United States, as are now attending or may hereafter attend any of the units of the greater university of Montana, provided:

Eligibility.

"(a) The educational assistance to which an eligible person is entitled to under this act may be afforded him during the period beginning on his eighteenth birthday, or on the successful completion of his secondary schooling, whichever first occurs, and ending on his twenty-third birthday, except that,

Service with armed forces.

(b) If he serves on duty with the armed forces as an eligible person after his eighteenth birthday but before his twenty-third birthday, then such period shall end five (5) years after his first discharge or release from such duty with the armed forces excluding from such five (5) years all periods during which the eligible person served on active duty before August 1, 1963, pursuant to (1) a call or order thereto issued to him as a reserve after July 30, 1961, or (2) an extension of an enlistment, appointment or period of duty with the armed forces pursuant to the laws of the United States of America; however, in no event shall such period be extended beyond his thirty-first birthday by reason of this paragraph."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall take effect from date of its passage and approval.

Approved March 3, 1965.

CHAPTER 151

An Act Amending Chapter 259 of the Session Laws of 1963, to Provide for Continuing the Montana Centennial Commission as a Temporary Agency.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Chapter No. 259 of the session laws of 1963 is amended to read as follows:

HeinOnline -- 1965 361 1965

Montana territorial centennial commission continued as temporary state agency.

"259. Section 1. The Montana territorial centennial commission, hereafter referred to as 'commission' organized under the provisions of senate resolution 18 and house resolution 9 passed by the thirty-seventh legislative assembly, is hereby continued as a temporary agency of state government. The number of commission members may be increased or decreased by the governor.

Purpose.

Section 2. The purpose of the commission is to make plans for the proper observance and celebration of the centennial and to carry out such plans.

Powers.

Section 3. The commission may

(1) Receive contributions, royalties, admission fees and other moneys arising from its activities. All moneys received by the commission shall be deposited in the state treasury for the use of the commission.

(2) Appoint personnel to administer its programs and pay such personnel out of moneys collected by the commission.

(3) Enter into contracts. No contract or obligation entered into by the commission shall ever become a charge against the state of Montana.

Termination —transfer to general fund.

(4) Perform whatever other functions are necessary to carry out the purpose of the commission.

Section *4.* This act is effective from July 1, 1963, to June 30, *1966.* On June 30, *1966,* the existence of the commission shall cease, and all moneys of the commission shall be transferred to the state general fund."

Approved March 3, 1965.

CHAPTER 152

An Act to Enable Boards of County Commissioners to Levy an Assessment on Certain Taxable Real Property Within the Counties for the Expenses of Soil Conservation Districts; Amending Sections 76-202, 76-204, 76-208, 76-209 and 76-210, R. C. M. 1947; and Repealing Section 76-203, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1965 362 1965

Section 1. Section 76-202, R. C. M. 1947, is amended to read as follows: Amending clause.

"76-202. **Copies of notice transmitted to county commissioners.** The county clerk and recorder shall, within thirty (30) days after receipt of such notice, transmit a copy of the same to the board of county commissioners, who shall determine whether the district has been lawfully organized." Copies of notice—county commissioners.

Section 2. Section 76-204, R. C. M. 1947, is amended to read as follows: Amending clause.

"76-204. **Estimate of money to be raised by assessment.** The supervisors of the district shall *on or before the first Monday of July, of each year,* furnish the board of county commissioners an estimate in writing of the amount of money to be raised by assessment which is needed for the next ensuing fiscal year." Estimate of money by assessment.

Section 3. Section 76-208, R. C. M. 1947, is amended to read as follows: Amending clause.

"76-208. **Maximum regular assessment.** The regular assessment in any one year shall not exceed one half (½) of one (1) mill on the dollar of total taxable valuation of *real property within the county except that within incorporated cities and towns.* The valuation shall be determined according to the last assessment roll." Maximum regular assessment.

Section 4. Section 76-209, R. C. M. 1947, is amended to read as follows: Amending clause.

"76-209. **Levy of assessment — maximum total levy.** The board of county commissioners of each county in which there lies any portion of the district may, annually at the time of levying county taxes, levy an assessment on the *taxable real property* within the county *except that within incorporated cities and towns. It shall* be known as the '..... (name of district) soil conservation district assessment,' *and shall be* sufficient to raise the amount reported to them in the estimate of the supervisors; provided, however, that income from the levy of the assessment provided in this act *for* any single district shall not exceed one thousand dollars ($1000)." Levy—maximum.

Section 5. Section 76-210, R. C. M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1965 363 1965

Computation of assessment rate.

"76-210. **Computation of rate of assessment.** The board of county commissioners shall determine the rate of assessment by deducting fifteen per cent (15%) for anticipated delinquencies from the total assessed value of the *taxable real property* in the county *except within incorporated cities and towns* and then dividing the sum required to be raised by the remainder of the total assessed value. If a fraction of a cent occurs in a valuation of one hundred dollars ($100) it shall be taken as a full cent."

Repealing clause.

Section 6. Section 76-203, R. C. M. 1947, is repealed.

Approved March 3, 1965.

CHAPTER 153

An act to Provide for the Licensing and Regulation of All Petroleum Dealers and Liquefied Petroleum Dealers Who Sell or Offer to Sell to a Consumer and the Licensing of Any Device and the Regulation of Its Use when Used for the Purpose of Delivering or Distributing Such Products as Are Sold or Offered for Sale by Such Dealers; Repealing Sections 60-201 and 60-202, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Terms—meaning. "State sealer" and "deputy sealer."

Section 1. **Meaning of terms when used in this act:** (1) The terms "state sealer" and "deputy sealer" mean, respectively, the commissioner of agriculture of the state of Montana and his deputy sealers of weights and measures of the state of Montana.

"Sell" and "sale."

(2) The words "sell" and "sale" shall also mean barter and exchange.

"Dealer."

(3) The term "dealer" means all persons, firms, copartnerships, corporations, trusts or agencies.

Petroleum dealer.

(4) A petroleum dealer is a dealer engaged, directly or indirectly, in the business of delivering or distributing to a consumer, or in the business of selling or offering or advertising for sale or in the business of refining or manufacturing or keeping for sale within the state of Montana any gasoline, kerosene, distillate, road oil, fuel oil, lubricating oil and greases, or any oil or gas or oil and gas

HeinOnline -- 1965 364 1965

product, except as otherwise defined as a liquefied petroleum dealer in subsection five (5).

Liquified petroleum dealer.

(5) A liquefied petroleum dealer is a dealer engaged, directly or indirectly, in the business of delivering or distributing to a consumer, or in the business of selling or offering or advertising for sale or in the business of refining or manufacturing or keeping for sale within the state of Montana any petroleum product composed predominantly of any of the following hydrocarbons, or mixtures thereof: Propane, propylene, butanes (normal butane or isobutane), and butylenes.

License required to do business—violation.

Section 2. License required as a condition precedent to the right to do business. It shall be a violation of this act for any petroleum dealer or liquefied petroleum dealer to do business in the state of Montana until a nontransferable license has been issued to said dealer by the state sealer. Such license shall be obtained by the dealer by making application to the state sealer upon such blank forms as may be provided by the state sealer for the right to do business in the state of Montana, and after the application has been made and filed the license, without fee, shall be issued. Any dealer who has not applied for and been issued a license for the right to do business in the state of Montana by the state sealer and who is found selling or offering for sale or delivering or distributing to a consumer shall, upon conviction, be fined as provided by this act, and any vehicle tank, or vehicle tank and meter, or any other measuring device used by said dealer for such delivery or distribution may be confiscated and seized as evidence by the state sealer or his deputy sealers. The state sealer or his deputy sealers shall not be liable to the owner or any other persons, firms, copartnerships, corporations, trusts or agencies for damages, directly or indirectly, caused by or resulting from such seizure.

Application.

Penalty.

Place of business license.

Section 3. **Place of business license.** Each petroleum dealer or liquefied petroleum dealer shall pay a license fee of two dollars ($2) for each place of business, but the fee may be deducted from any weight or measuring device test fee or license fee required by this act, or any other act, relating to weights and measures.

Fee.

Pump license fee.

Section 4. **Pump license fees.** Each petroleum dealer shall pay a license fee of two dollars ($2) for each gasoline pump, diesel pump or fuel oil pump measuring device.

HeinOnline -- 1965 365 1965

Petroleum and liquified petroleum meter license fees.

Section 5. **Petroleum and liquefied petroleum meter license fees.** All petroleum vehicle tank meters and bulk petroleum meters of two and one-half (2½) inches and under, six dollars ($6). All two and one-half (2½) inch and under petroleum meters for more than one fluid, ten dollars ($10). All bulk petroleum meters over two and one-half (2½) inch, ten dollars ($10). All petroleum meters over two and one-half (2½) inch for more than one fluid, fifteen dollars ($15). All liquefied petroleum liquid meters fifteen dollars ($15).

Petroleum and liquified petroleum vehicle tank license fees.

Section 6. **Petroleum and liquefied petroleum vehicle tank license fees.** The license fee for all petroleum or liqufied petroleum vehicle tanks without meters used for distribution of such products shall be as follows: Up to and including two hundred (200) gallons, eight dollars ($8); over two hundred (200) and including three hundred (300) gallons, ten dollars ($10); over three hundred (300) and including five hundred (500) gallons, twelve dollars ($12; over five hundred (500) and including one thousand (1,000) gallons, sixteen dollars ($16); over one thousand (1,000) and including two thousand (2,000) gallons, twenty dollars ($20); for each additional one thousand (1,000) gallons over two thousand (2,000) gallons, four dollars ($4).

Licenses annual and nontransferable.

All licenses shall be annual and nontransferable and shall expire December 31. There shall be an additional charge of fifty per cent (50%) on all license fees, required by this act, that are not paid before March 1 of each year, where the vehicle tank, or meter, or measuring device is in use. If such fee is not paid the equipment shall be sealed and removed from service, by the state sealer or his deputy sealers, and it shall be a violation of this act for anyone to use the device or break the seal until all such fees have been paid.

Dispensation of petroleum products.

Section 7. **Dispensation of petroleum products.** It shall be unlawful to make hose delivery from petroleum vehicle tanks unless the tanks have been calibrated by the state sealer or his deputy sealers. Part of a compartment delivery can only be made by an approved, calibrated and sealed meter or an approved can. Gauge stick measurement will not be permitted. All tank markers must be positioned and sealed as provided by the state sealer. The state sealer shall, by proper regulation, fix fees for retest-

HeinOnline -- 1965 366 1965

ing meters or measuring devices or vehicle tanks used for distribution to a consumer by petroleum or liquefied petroleum dealers, and for any other special service rendered.

Unlawful to sell except as provided by act.

Section 8. **It shall be unlawful to sell or deliver liquefied petroleum to a consumer, as a liquid, except as provided by this act.** Full compartment sales or deliveries may only be made in a manner that shall be provided by the state sealer. All other sales or deliveries may only be made through a meter which has been approved, calibrated and sealed by the state sealer or his deputy sealers; or by weight, unless otherwise provided by the state sealer.

Temperature correction of liquified petroleum.

Section 9. **Temperature correction of liquefied petroleum to sixty degrees (60°) fahrenheit when sold to a consumer.** It shall be a violation of this act to sell or offer for sale or deliver liquefied petroleum to a consumer, as a liquid or by liquid measurement, the measurement of which has not been temperature corrected to sixty degrees (60°) fahrenheit, unless otherwise provided by the state sealer. Temperature correction shall only be made by means of an automatic compensating device which has been approved, calibrated, and sealed by the state sealer or his deputy sealers; or by weight as provided by the state sealer.

Rules and regulations.

Section 10. The state sealer is hereby authorized to promulgate and adopt such rules, regulations and standards as he shall deem necessary for the administration and enforcement of this act.

Penalty for violation.

Section 11. **Penalty for violation of this act.** Any dealer who by himself or by his servant or agent, or as the servant or agent of another person, violates any provision of this act or any rule or regulation adopted hereunder shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than twenty-five ($25) nor more than one hundred ($100) dollars for each violation.

Saving clause.

Section 12. **Saving clause.** This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act.

Severability clause.

Section 13. **Severability clause.** It is the intent of the legislative assembly that if a part of this act is invalid,

HeinOnline -- 1965 367 1965

all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Repealing clause.

Section 14. **Repealing clause.** Sections 60-201 and 60-202, R. C. M. 1947, are repealed.

Effective January 1, 1966.

Section 15. **Effective date.** This act is effective January 1, 1966.

Approved March 3, 1965.

CHAPTER 154

An Act Abolishing Individual Liquor Permits; Amending Sections 4-113, 4-102, 4-112, 4-116, 4-134, 4-136, 4-137, 4-138, 4-139, 4-159, 4-164, 4-201, 4-202, 4-234, 4-501, and 4-502, R. C. M. 1947; and Repealing Sections 4-157, 4-162, 4-165, 4-166, 4-168, 4-511, and 4-123 through 4-132 R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 4-113, R. C. M. 1947, is amended to read as follows:

Regulations by board—scope.

"4-113. **Regulations may be made by board—scope of regulations.** (1) The board may make such regulations, not inconsistent with this act, as to the board seem necessary, for carrying out the provisions of this act, and for the efficient administration thereof.

Power of regulation to include.

(2) Without thereby limiting the generality of the provisions contained in subsection (1) hereof, it is declared the power of the board to make regulations in the manner set out in that subsection shall extend to and include the following:

(a) Regulating the equipment and management of state stores and warehouses in which liquor is kept or sold and prescribing the books and records to be kept therein;

(b) Prescribing the duties of the officers, clerks and servants of the board, and regulating their conduct while in the discharge of their duties;

HeinOnline -- 1965 368 1965

(c) Governing the purchase of liquor and the furnishing of liquor to state stores established under this act;

(d) Determining the classes, varieties and brands of liquor to be kept for sale at any state store;

(e) Prescribing, subject to this act, the days and hours during which state liquor stores and hotels, and clubs licensed to sell beer under this act shall be kept open for the sale of liquor;

(f) Providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each class, variety or brand of liquor kept for sale under this act;

(g) Prescribing an official seal and official labels and determining the manner in which such seal or label shall be attached to every package of liquor sold or sealed under this act, including the prescribing of different official seals or different official labels for different classes, varieties and brands of liquor;

(h) Prescribing forms to be used for the purpose of this act or of the regulations made thereunder, and the terms and conditions in licenses issued and granted under this act;

(i) Prescribing the kinds and quantities of liquor which may be purchased, including the quantity which may be purchased at any one time or within any specified period of time;

(j) Prescribing the form of records of purchase of liquor, and the reports to be made thereon to the board, and providing for inspection of the records so kept;

(k) Prescribing the manner of giving and serving notices required by this act or the regulations thereunder;

(l) Prescribing the fees payable in respect of licenses issued under this act for which no fees are prescribed in this act, and prescribing the fees for anything done or permitted to be done under the regulations made thereunder;

(m) Prescribing, subject to the provisions of this act, any advertisement of the application, if required by the board and the conditions and qualifications necessary for the obtaining of club licenses and the books and records

HeinOnline -- 1965 369 1965

to be kept and the returns to be made by clubs, and the number of licensed clubs in any municipality, and providing for the inspection of clubs;

(n) Prescribing, subject to the provisions of this act, the conditions and qualifications necessary for the obtaining of a beer license, and the books and records to be kept and the returns to be made by the licensees and the number of such licensed premises in any municipality and providing for the inspection of such licensed premises;

(o) Specifying and describing the place and the manner in which liquor may be lawfully kept or stored;

(p) Specifying and regulating the time and periods when, and the manner, methods and means by which, vendors and brewers shall deliver liquor under this act, and the time and periods when, and the manner, methods and means by which liquor, under this act, may be lawfully conveyed or carried;

(q) Governing the conduct, management and equipment of any premises licensed to sell beer under this act;

(r) Subject to this act, to make regulations respecting the sale and consumption of beer in a club, holding a club license;

(s) Providing for the imposition and collection of the tax to be collected or levied under section 4-147, and making regulations respecting returns to be made by a brewer, and respecting the accounting and payment, by a brewer to the board, of the tax to be collected by him under said section 4-147.

Power to make regulations.

(3) Whenever it is provided in this act that any act, matter or thing, may be done, if permitted or authorized by the regulations, or may be done in accordance with the regulations or as provided by the regulations, the board, subject to the restrictions set out in subsection (1) hereof, shall have the power to make regulations respecting such act, matter or thing."

Amending clause.

Section 2. Section 4-102, R. C. M. 1947, is amended to read as follows:

Definitions.

"4-102. **Definitions.** The following words and phrases used in this act shall take the following interpretations:

"Board."

(a) 'Board' means the board created by this act under the name of 'Montana liquor control board';

HeinOnline -- 1965 370 1965

"Club." (b) 'Club' shall mean any association of individuals for purposes of mutual entertainment and convenience and shall include the premises occupied or used for any such purpose;

"Club license"—"club licensee." (c) 'Club license' means a club license granted to a club to sell beer under section 4-133, and 'club licensee' means a club which has been granted a license under said section;

"Dentist." (d) 'Dentist' means a person duly licensed to practice dentistry under the laws of the state of Montana;

"Druggist." (e) 'Druggist' means a duly licensed pharmacist under the laws of the state of Montana;

"State liquor store." (f) 'State liquor store' means a state liquor store established under this act;

"Hotel." (g) 'Hotel' shall mean any place where the public may for a consideration, obtain sleeping accommodations, with or without meals;

"Interdicted person." (h) 'Interdicted person' means a person to whom the sale of liquor is prohibited by an order under this act;

"Liquor or liquors." (i) 'Liquor' or 'liquors' means and includes any alcoholic, spirituous, vinous, fermented, malt or other liquor which contains more than one per centum (1%) of alcohol by weight, but shall not mean or include beer as that term is defined in the Montana beer act by subsection (b) of section 4-302 and as permitted to be manufactured and/or sold or transported in and into this state or possessed therein in the manner and under the conditions prescribed in the 'Montana Beer Act.'

"Municipality." (j) 'Municipality' means any city, town, village, hamlet, municipal district (exclusive of any hamlet situate therein), and includes the council of the municipality; and 'municipal' shall have a like meaning;

"Member of a club." (k) 'Member of a club' means a person who, whether as a charter member or admitted in accordance with the by-laws or rules of a club, has become a member thereof, who maintains his membership by the payment of his regular periodic dues in the manner provided by such rules or by-laws and whose name and address are entered on the list of members supplied to the board at the time of the application for a club license under this act, or if admitted thereafter, within ten days after his admission;

HeinOnline -- 1965 371 1965

"Package." (l) 'Package' means any container or containers, or receptacle or receptacles used for holding liquor;

"Physician." *(m)* 'Physician' means a person duly licensed to practice medicine in the state of Montana;

"Prescription." *(n)* 'Prescription' means a memorandum in the form prescribed by the regulations made under the authority of this act, signed by a physician, and given by him to a patient for the obtaining of liquor pursuant to this act for use for medicinal purposes;

"Public place." *(o)* 'Public place' includes any place, building, or conveyance to which the public has or is permitted to have access and any place of public resort;

"Residence." *(p)* 'Residence' means a building, or part of building, or tent, where a person resides but shall not include any part of a building which part is not actually and exclusively used as a private residence, nor any part of a hotel other than a private guest room, nor a club or any part thereof, nor any place from which there is access to a club or hotel except through a street or lane or other open and unobstructed means of access, nor any portion of a building used in part for business purposes unless such portion is separated from the part used for business purposes by a wall or walls having no doors or other means of access opening into such part used for business purposes;

"Regulations." *(q)* 'Regulations' means regulations made by the Montana liquor control board;

"Sale" and "sell." *(r)* 'Sale' and 'sell' include exchange, barter, and traffic; these terms also include the selling or supplying or distributing, by any means whatsoever, of liquor or of any liquid known or described as beer or near-beer, or by any name whatever commonly used to describe malt or brewed liquor, by any partnership or by any society, association, or club, whether incorporated or unincorporated, and whether heretofore or hereafter formed or incorporated, to any partnership, society, association or club or to any member thereof;

"Spirits." *(s)* 'Spirits' means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution and includes, among other things, brandy, rum, whisky, and gin;

"Vendor." *(t)* 'Vendor' means a person appointed as a vendor under this act;

HeinOnline -- 1965 372 1965

(u) 'Wine' means any alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits (grapes, apples, etc.); or other agricultural products containing sugar (honey, milk, etc.); "Wine."

(v) 'Malt liquor' means any beverage, other than beer, obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and hops in drinkable water." "Malt liquor."

Section 3. Section 4-112, R. C. M. 1947, is amended to read as follows: Amending clause.

"4-112. **Functions, powers and duties of board.** The board shall have the following functions, duties and powers: Functions, powers and duties of board.

(a) To buy, import, and have in its possession for sale, and sell, liquors, in the manner set forth in this act;

(b) To control the possession, sale and delivery of liquors in accordance with the provisions of this act;

(c) To determine the municipalities within which state liquor stores shall be established throughout the state, and the situation of the stores within every such municipality;

(d) To lease, furnish and equip any building or land required for the operation of this act;

(e) To buy or lease all plant and equipment it may consider necessary and useful in carrying into effect the objects and purposes of this act;

(f) To appoint vendors, and also every officer, inspector, clerk or other employee, required for the operation or carrying out of this act, and to dismiss the same, fix their salaries or remuneration, assign them their title, define their respective duties and powers, and to engage the service of experts and persons engaged in the practice of a profession, if deemed expedient;

(g) To determine the nature, form and capacity of all packages to be used for containing liquor kept or sold under this act; provided that all spirituous and vinous liquors shall be purchased and sold only in bottled containers in the original packages, and not in barrels or bulk, it being the intent and purpose of this act to prevent the rectification or dilution of such liquors;

HeinOnline -- 1965 373 1965

(h) To grant and issue licenses under and in pursuance to this act;

(i) Without in any way limiting, or being limited by the foregoing, to do all such things as are deemed necessary or advisable by the board for the purpose of carrying into effect the provisions of this act, or the regulations made thereunder."

Amending clause.

Section 4. Section 4-116, R. C. M. 1947, is amended to read as follows:

Provisions—sale of liquor and beer by vendors.

"4-116. **Provisions concerning sale of liquor and beer by vendors.** (1) A vendor may sell to any person such liquor as that person is entitled to purchase in conformity with the provisions of this act and the regulations made thereunder.

(2) Before the vendor shall make delivery of any liquor, other than beer, sold pursuant to this section, he shall—

(a) have first received an order in writing, dated and signed by the purchaser, setting out the kind and quantity of the liquor ordered; and

(b) have been paid the purchase price in cash.

(3) A vendor may, in accordance with this act, and the regulations made thereunder, sell and deliver beer provided that no delivery of beer sold under the provisions of this section shall take place until the purchaser has paid for the same in the manner prescribed in the regulations under this act."

Amending clause.

Section 5. Section 4-134, R. C. M. 1947, is amended to read as follows:

Druggists—sale of liquor authorized —when.

"4-134. **Druggist allowed liquor—sale of liquor by druggist, when authorized.** Any druggist may have in his possession alcohol purchased by him pursuant to this act; such alcohol to be used solely in connection with the business of the druggist in compounding medicines or as a solvent or preservative.

Provided that in a municipality where there is no state liquor store a druggist may keep for sale and may sell for strictly medicinal purposes liquor purchased by him pursuant to this act, but no sale of liquor shall be made by such last mentioned druggist except upon a bona fide

HeinOnline -- 1965 374 1965

prescription signed by a physician and no more than one sale and one delivery shall be made on any one prescription."

Section 6. Section 4-136, R. C. M. 1947, is amended to read as follows: Amending clause.

"4-136. **Physician allowed liquor—restrictions—violations.** (1) Any physician who deems liquor necessary for the health of a patient of his whom he has seen or visited professionally may give to such patient a prescription therefor in the prescribed form, signed by the physician, or the physician may administer the liquor to the patient, for which purpose the physician shall administer only such liquor as was purchased by him pursuant to this act, and may charge for the liquor so administered; but no prescription shall be given nor shall liquor be administered by a physician except to a bona fide patient in cases of actual need, and when in the judgment of the physician the use of liquor as medicine in the quantity prescribed or administered is necessary. Physicians allowed liquor—restrictions —violations.

(2) Every physician who gives any prescription or administers any liquor in evasion or violation of this act, or who gives to or writes for any person a prescription for or including liquor for purpose of enabling or assisting any person to evade any of the provisions of this act, or for the purpose of enabling or assisting any person to obtain liquor to be used as a beverage, or to be sold or disposed of in any manner in violation of the provisions of this act, shall be guilty of an offense against this act."

(7) Section 4-137, R. C. M. 1947, is amended to read as follows: Amending clause.

"4-137. **Dentist allowed liquor — restrictions — violations.** Any dentist who deems it necessary that any patient being then under treatment by him should be supplied with liquor as a stimulant or restorative may administer to the patient the liquor so needed, and for that purpose the dentist shall administer liquor purchased by him pursuant to this act, and may charge for the liquor so administered; but no liquor shall be administered by a dentist except to a bona fide patient in case of actual need, and every dentist who administers liquor in evasion or violation of this act shall be guilty of an offense against this act." Dentists allowed liquor—restrictions —violations.

HeinOnline -- 1965 375 1965

Amending clause.

Section 8. Section 4-138, R. C. M. 1947, is amended to read as follows:

Veterinary allowed liquor—restrictions—violations.

"4-138. **Liquor allowed veterinary—restrictions—violations.** Any veterinary who deems it necessary may in the course of his practice administer or cause to be administered liquor to any dumb animal, and for that purpose the veterinary shall administer or cause to be administered liquor purchased by him pursuant to this act, and may charge for the liquor so administered or caused to be administered; but no veterinary shall give to or permit any person to consume as a beverage any liquor so purchased, and every veterinary who evades or violates or suffers or permits any evasion of this section shall be guilty of an offense against this act."

Amending clause.

Section 9. Section 4-139, R. C. M. 1947, is amended to read as follows:

Hospital and sanitariums—restrictions—violations.

"4-139. **Hospitals and sanitariums—restrictions—violations.** Any person in charge of an institution regularly conducted as a hospital or sanitarium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, may administer liquor purchased by him to any patient or inmate of the institution who is in need of the same, either by way of external application or otherwise for emergency medical purposes, and may charge for the liquor so administered; but no liquor shall be administered by any person under this section except to bona fide patients or inmates of the institutions of which he is in charge and in cases of actual need, and every person in charge of an institution who administers liquor in evasion or violation of this act shall be guilty of an offense against this act."

Amending clause.

Section 10. Section 4-159, R. C. M. 1947, is amended to read as follows:

Person not to consume liquor or be intoxicated in public place.

"4-159. **Persons not to consume liquor or be intoxicated in public places.** (1) Except in the case of liquor purchased and consumed in accordance with the beer license or a special *license* for a purpose permitting its consumption in a public place, no person shall consume liquor in a public place.

(2) No person shall be in an intoxicated condition in a public place."

HeinOnline -- 1965 376 1965

Section 11. Section 4-164, R. C. M. 1947, is amended to read as follows: Amending clause.

"4-164. **Interdicted persons—presence on liquor store or beer licensee's premises forbidden.** Any interdicted person who enters or is found upon the premises of any state liquor store, or the premises for which a beer license has been granted, shall be guilty of an offense against this act." Interdicted persons forbidden to enter liquor store or beer licensee's premises.

Section 12. Section 4-201, R. C. M. 1947, is amended to read as follows: Amending clause.

"4-201. **Interdiction — order of — effect — disposal of liquor of interdicted person.** (1) Where it is made to appear to the satisfaction of any court that any person, resident or sojourning within the state, by excessive drinking of liquor, misspends, wastes, or lessens his estate, or injures his health, or endangers or interrupts the peace and happiness of his family, the court may make an order of interdiction prohibiting the sale of liquor to him until further order; and the court shall cause the order to be forthwith filed with the board. Interdiction—order—effect—disposal of liquor.

(2) Every interdicted person keeping or having in his possession or under his control any liquor shall be guilty of an offense against this act, and, on summary conviction thereof, the court making the conviction may in and by the conviction declare the liquor and all packages in which the same is contained to be forfeited to the state of Montana:

Provided that on the making of an order for interdiction the interdicted person may forthwith deliver to the board all liquor then in his possession or under his control to be kept for him by the board until the order of interdiction is revoked or set aside, or to be purchased by the board at a price to be fixed by it."

Section 13. Section 4-202, R. C. M. 1947, is amended to read as follows: Amending clause.

"4-202. **Filing of order of interdiction—.** Upon receipt of the order of interdiction, the board shall notify the interdicted person and all vendors, and such other persons as may be provided by the regulations, of the order of interdiction so made and filed prohibiting the sale of liquor to the interdicted person." Filing order of interdiction.

HeinOnline -- 1965 377 1965

Amending clause. Section 14. Section 4-234, R. C. M. 1947, is amended to read as follows:

Officers may administer oath. "4-234. **Officers may administer oaths.** Every vendor may administer any oath and take and receive any affidavit or declaration required under this act or the regulations."

Amending clause. Section 15. Section 4-501, R. C. M. 1947, is amended to read as follows:

Definitions. "4-501. **Definitions.** As used in this act the term

"Licensee." (a) 'Licensee' means any person, firm or corporation licensed by the state of Montana to sell liquor and/or beer and includes the agents, servants and employees of any such person, firm or corporation;

"Vendor." (b) 'Vendor' means the vendor of any state of Montana liquor store and includes all liquor store employees under the immediate supervision of such vendor;

"Beer." (c) 'Beer' means beer as defined, regulated and controlled by the Montana beer act (Title 4, chapter 3, sections 4-301 through 4-356, inclusive, Revised Codes of Montana, 1947, as amended or supplemented);

"Liquor." (d) 'Liquor' means liquor as defined, regulated and controlled by the Montana retail liquor license act (Title 4, chapter 4, sections 4-401 through 4-441, inclusive, Revised Codes of Montana, 1947, as amended or supplemented) and the state liquor control act of Montana (Title 4, chapters 1 and 2, sections 4-101 through 4-239, inclusive, Revised Codes of Montana, as amended or supplemented).

Amending clause. Section 16. Section 4-502, R. C. M. 1947, is amended to read as follows:

Identification card—form. "4-502. **Identification card—form.** Any person who desires to procure any beer and/or liquor from any vendor or licensee may, for the purpose of aiding such vendor or licensee to determine whether or not such person is at least twenty-one (21) years of age, be required to complete and sign an identification card, which shall be in substantially the following form:

ALCOHOLIC BEVERAGES IDENTIFICATION CARD

This card if properly completed and signed may be accepted by the vendor or licensee named below for

HeinOnline -- 1965 378 1965

the purpose of establishing the legal age of the person designated who desires to purchase alcoholic beverages.

Complete Two or More of the Following:

Social Security Card No.....; Issued at..... Date.....
Birth Certificate issued at.....; Date of birth.....
Draft Card issued at.....; Date of birth.....
Discharge Papers: Service.....; Issued at.....;
Date of birth.....
Military Identification Card or Pass: Service.....;
Issued at..... Date..... Age Shown.....
Driver's License: Date.....; Issued at.....;
Age Shown.....

I hereby represent to..... that I am over the age of twenty-one (21) years, having been born on the.....day of....., 19....., at....., and this statement is made for the purpose of establishing my age in order to obtain service of alcoholic beverages with the full knowledge that I am subject to fine and/or imprisonment for any misrepresentation made herein. I have submitted the documents and papers checked on this card, and the person to whom submitted has compared the signatures thereon and has also compared the descriptions on said documents with my physical characteristics.

(Witness)..... (Signature).....
(Address)..... (Address).....

Forms.

The Montana liquor control board shall cause to be printed and distributed upon request to vendors and licensees blank forms of the identification card herein prescribed."

Repealing clause.

Section 17. Sections 4-157, 4-162, 4-165, 4-166, 4-168, 4-511, and sections 4-123 through 4-132, R. C. M. 1947, are repealed.

Approved March 3, 1965.

CHAPTER 155

An Act Requiring the Lessee of Restaurants, Bars or Taverns to File Payroll Bonds for the Protection of Employees of Lessees Where the Equipment, Ap-

HeinOnline -- 1965 379 1965

pliances, and Other Accessories Necessary for the Conduct of Business Therein at the Place of Business Are Owned by the Lessor.

Be it enacted by the Legislative Assembly of the State of Montana:

Restaurant, bar and tavern wage protection act.

Section 1. This act shall be known as the restaurant, bar and tavern wage protection act.

Unlawful to lease without filing bond.

Section 2. From and after the effective date of this act, it shall be unlawful for any person to lease a premise to be used as the place for conducting a restaurant, bar or tavern business, where the equipment, appliances and other accessories necessary for the conduct of business therein are owned by the lessor, without first having filed with the commissioner of labor and industry a bond in accordance with the requirements of section 5 of this act.

Purpose.

Section 3. The purpose of this act is to protect employees of lessees conducting business as restaurants, bars and taverns employed under the circumstances of ownership of the equipment, appliances and other accessories as outlined in section 2 of this act and to assure the payment of wages to such employees in the event the lessee ceases operation of his business and is unable to pay the wages due and owing to his employees.

Section 4. For the purposes of this act the words and phrases used herein have the following meaning:

"Person." (1) "Person" includes any establishment, firm, partnership, corporation, person or association of persons.

"Restaurant." (2) "Restaurant" means a public eating house where food is prepared and served for human consumption on the premises.

"Lessor." (3) "Lessor" means one who has leased premises, equipment, appliances or accessories for a definite or indefinite period, by a written or parol lease.

"Lessee." (4) "Lessee" means one to whom a lease is made.

"Bar" or "tavern." (5) "Bar" or "tavern" means a house where liquor or beer are sold to be drunk on the premises.

"Liquor." (6) "Liquor" means and includes any alcoholic, spirituous, vinous, fermented, malt or other liquor, which contains more than one per centum (1%) of alcohol by weight, but shall not mean or include beer as that term

HeinOnline -- 1965 380 1965

is defined in the Montana beer act by subsection (b) of section 4-302, Revised Codes of Montana, 1947.

"Beer." (7) "Beer" means any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt and hops, or of any similar products, in drinkable water, containing not more than four per centum (4%) alcohol by weight.

"Employee." (8) "Employee" means a person who works for wages or salary in the service of an employer.

"Business." (9) "Business" means a commercial enterprise of any kind involving the buying and selling of goods.

"Equipment." (10) "Equipment" means the articles, furnishings, supplies and apparatus used in a business.

"Appliances." (11) "Appliances" means all devices and apparatus used in the conduct of business.

"Accessories." (12) "Accessories" means those articles, furnishings, supplies, devices and other apparatus which are used in and contribute in a secondary way, along with the appliances and equipment, to the conduct of a business.

Amount of bond. Section 5. Every person who leases from another person premises for the purpose of conducting therein a business as a restaurant, bar or tavern, or who leases equipment, appliances or accessories for such purpose, is hereby required to file a bond equal to at least double the amount of the semi-monthly payroll with the commissioner of labor and industry and an affidavit showing the name of the owner of the equipment, appliances and other accessories necessary for the conduct of business therein.

Bond and affidavit —filing —conditions. Section 6. The bond and affidavit required by section 5 of this act shall be filed with the commissioner of labor and industry by July 1 and February 1 of each year. The state of Montana shall be named as the obligee therein with good and sufficient sureties to be approved by the attorney general of the state of Montana. Said bond shall at all times be kept in full force and effect and any cancellation or revocation thereof or withdrawal of the sureties therefrom shall automatically revoke and suspend the certificate issued to the lessee therein as provided in section 9 of this act until such time as a new bond of like tenure and effect shall have

HeinOnline -- 1965 381 1965

been filed and approved as herein provided. Such bond shall be conditioned to assure that in any lease transaction of the type referred to in section 2 of this act the persons who perform labor or other personal services for the lessee are guaranteed their wages in the event the lessee ceases operation of the business, for any reason, and is unable to pay the wages due and owing the employees.

Liability of lessor and lessee—no bond filed.

Section 7. Upon nonpayment of wages, if no bond has been filed as provided for in this act, the employees of the lessee may recover from either the lessor or lessee who shall be jointly and severally liable in accordance with the provisions of sections 41-1302 and 41-1306, Revised Codes of Montana, 1947.

Action to enjoin operation without bond.

Section 8. If any person engages in the restaurant, bar or tavern business, as lessee, without having first filed a bond as required by section 5 of this act, the attorney general of the state of Montana, the commissioner of labor and industry of the state of Montana, or any citizen, group of citizens or any association in the county where the violator conducts his business may institute an action to enjoin such person from engaging in the business until compliance with this act has been met.

Fee—certificate.

Section 9. Upon filing a bond as required by section 5 of this act and after payment of two ($2) dollars, as application fee, the commissioner of labor and industry shall issue to the lessee applying a certificate stating that the lessee is duly bonded and entitled to conduct a restaurant, bar or tavern business in the state of Montana.

New bond—increase.

Section 10. The commissioner of labor and industry may require a new bond or a bond of a greater amount than double the semi-monthly payroll whenever the commissioner deems it necessary for the protection of the employees of a lessee. The commissioner may, after due notice given, discharge the existing sureties from further liability and require that other sureties be provided.

Fees—disposition.

Section 11. All fees and moneys collected pursuant to section 9 of this act shall be credited to a special account to be known as the restaurant, bar and tavern employees wage protection fund, and shall be used by the commissioner of labor and industry to carry out the provisions of this act.

HeinOnline -- 1965 382 1965

Section 12. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications. Severability clause.

Approved March 3, 1965.

CHAPTER 156

An Act Relating to the Organization of Political Parties and the Selection and Election of Party Nominees and Officials; Giving Political Parties the Power to Make Rules and Regulations, Call Conventions, Select Delegates, Adopt Platforms, Nominate Presidential Electors, Select Officers and National Committeemen and Women, and Nominate Candidates to Fill Certain Vacancies; Amending Section 23-902, R. C. M. 1947, to Change the Date of the Primary Election; Amending Section 23-513, R. C. M. 1947, Relating to Closing of Registration and to Publishing and Posting of Notice of the Closing of Registration; Amending Section 23-514, R. C. M. 1947, Relating to Printing and Posting of Lists of Registered Electors; Amending Section 23-807, R. C. M. 1947, Relating to the Filing of Certain Certificates of Nomination; Amending Section 23-809, R. C. M. 1947, Relating to the Secretary of State's Certificate of Nomination; Amending Section 23-929, R. C. M. 1947, Relating to County and City Central Committees; Amending Section 23-1008, R. C. M. 1947, Relating to Payment of Convention Expenses; Amending Section 23-1117, R. C. M. 1947, Relating to the Furnishing of Ballots to Precincts; Amending Section 23-1611, R. C. M. 1947, Relating to Voting Machines; and Repealing Sections 23-930, 23-932, 23-1002, 23-1006, 23-1007, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Political parties — authority and power.** Each political party shall have power to: Political parties —authority and power.

(a) Make its own rules and regulations;

(b) Provide for and select its own officers;

HeinOnline -- 1965 383 1965

(c) Call conventions and provide for the number and qualifications of delegates thereat;

(d) Adopt platforms;

(e) Provide for selection of delegates to national conventions;

(f) Provide for the nomination of presidential electors;

(g) Provide for the selection of national committeemen and women;

(h) Make nominations to fill vacancies occurring among its candidates nominated for offices to be filled by the state at large or by any district consisting of more than one (1) county where such vacancies are caused by death, resignation or removal from the electoral district;

(i) Perform all other functions inherent in such an organization.

Amending clause.

Section 2. Section 23-902, R. C. M. 1947, is amended to read as follows:

Date of primary election—purpose.

"23-902. **Date of holding primary election—purpose of.** On the first Tuesday *after the third Monday of August,* preceding any general election not including special elections to fill vacancies, municipal elections in towns and cities, irrigation district and school elections, at which public officers in this state and in any district or county are to be elected, a primary nominating election shall be held in accordance with this act in the several election precincts comprised within the territory for which such officers are to be elected at the ensuing election, which shall be known as the primary nominating election, for the purpose of choosing candidates by the political parties, subject to the provisions of this act, for United States senators and representatives, in Congress and all other elective state, district and county officers, and delegates to any constitutional convention or conventions that may hereafter be called, who are to be chosen, at the ensuing election wholly by electors within the state, or any subdivision of this state, and also for choosing and electing county central committeemen and committeewomen by the several parties subject to the provisions of this act."

HeinOnline -- 1965 384 1965

Section 3. Section 23-513, R. C. M. 1947, is amended to read as follows: Amending clause.

"23-513. **Close of registration—procedure.** The county clerk shall close all registration for the full period of *forty (40)* days prior to and before any election. He shall immediately transmit to the secretary of state a certificate showing the number of voters registered in each precinct in said county. The county clerk of each county must cause to be published in a newspaper within his county, having a general circulation therein, for *twenty (20)* days before which time when such registration shall be closed for any election, a notice signed by him to the effect that such registration will be closed on the day provided by law, and which day shall be specified in such notice; and must also state that electors may register for the ensuing election by appearing before the county clerk at his office, or by appearing before a deputy registrar or before any notary public or justice of the peace in the manner provided by law. The publication of such notice must continue for the full period of *twenty (20)* days. At least *twenty (20)* days before the time when the official register is closed for any election, the county clerk shall cause to be posted in each voting precinct at such election, notice of the time when the official register will close for such election." Close of registration—procedure.

Section 4. Section 23-514, R. C. M. 1947, is amended to read as follows: Amending clause.

"23-514. **Printing and posting of lists of registered electors.** The county clerk shall, at least *ten (10)* days preceding any election, cause to be printed and posted a list of all electors entitled to be registered as shown by the official register of the county, and who are on the precinct registers as entitled to vote in the several precincts of such county, city or town, or school district of the first class, provided, that if the city clerk of any city or town shall, in writing, certify to the county clerk, not less than twenty-five (25) days before the date fixed by law for the holding of any primary nominating election, that no petitions for nomination under the direct primary election law for any office to be filled at the next ensuing annual city election have been filed with such city or town clerk, not less than thirty (30) days before the date fixed by law for the holding of the primary nominating elec- Lists of registered electors—printing and posting.

HeinOnline -- 1965 385 1965

tion, then the county clerk shall not cause to be printed or posted such list of registered electors for such city or town. Such printed list of registered electors shall contain the name of the elector in full, together with his residence, giving the number and street, or the name of the house, (.....) and in all cases where the elector resides outside of the city or town, such printed list shall contain the post office address of such elector, as shown by the official register card of the elector, and the registry number. The expense of printing said list shall be paid by said county, city or town, or school district, in which the election is to be held. The county clerk shall cause to be posted *at each precinct in the county,* not less than *ten (10)* days before any election, as in this act provided for, a copy of the list of registered voters herein provided for, and shall retain sufficient number of said printed lists of registered voters in his office as may be necessary for the convenience of the public. He shall furnish to any qualified elector of any county, city or town or school district applying therefor a copy of the same. *When* the list *of registered voters* herein provided for has been printed and posted for any primary election, the same may be *posted and* used for the *general* election, *but only if* a supplemental list giving the names of electors who may have registered after the first list was prepared *is printed and posted therewith.*"

List to contain.

Expense.

Posting.

Amending clause.

Section 5. Section 23-807, R. C. M. 1947, is amended to read as follows:

Certificates to be filed when.

"23-807. **When certificates to be filed.** Certificates of nomination to be filed with the secretary of state must be filed with the secretary of state not less than *sixty (60)* days before the date fixed by law for the election. Certificates of nomination herein directed to be filed with the county clerk must be filed not less than *sixty (60)* days before the election. Certificates of nomination of candidates for municipal offices must be filed with the clerks of the respective municipal corporations not more than thirty (30) days and not less than fifteen (15) days previous to the day of election; but the provisions of this section shall not be held to apply to nominations for special elections or to fill vacancies."

Amending clause.

Section 6. Section 23-809, R. C. M. 1947, is amended to read as follows:

HeinOnline -- 1965 386 1965

"23-809. **Secretary of state to certify to county clerk names of persons nominated.** Not less than forty-five (45) days before an election to fill any public office, the secretary of state must certify to the county clerk of each county within which any of the electors may by law vote for candidates for such office, the name and description of each person nominated, as specified in the certificates of nomination filed with the secretary of state."

Secretary of state to certify persons nominated.

Section 7. Section 23-929, R. C. M. 1947, is amended to read as follows:

Amending clause.

"23-929. **County and city central committeemen, how elected.**

Election of county and city central committeemen.

(1) There shall be elected by each political party subject to the provisions of this act, at said primary nominating election, two (2) committeemen, one (1) of which shall be a man and one (1) of which shall be a woman, for each election precinct, who shall be residents of such precincts. Any elector may be placed in nomination for committeeman and committeewoman of any precinct by a writing so stating, signed by such elector, and filed in the office of the county clerk within the time required in this act for the filing of petitions naming individuals as candidates for nomination at the regular biennial primary election. The names of the various candidates for precinct committeemen and committeewomen of each political party shall be printed on the ticket of the same in the same manner as other candidates and the voter shall express his choice among them in like manner as for such other candidates.

Election—qualifications.

(2) The committeemen and committeewomen thus elected shall be the representatives of their political party in and for such precinct in all ward or subdivision committees that may be formed. The committeemen and committeewomen elected in each precinct in each county shall constitute the county central committee of each of said respective political parties. Those committeemen and committeewomen who reside within the limits of any incorporated city or town shall constitute ex-officio the city central committee of each of said respective political parties and shall have the same power and jurisdiction as to the business of their several parties in such city matters that the county committee have in county matters, save only the power to fill vacancies in said com-

Elected representatives to constitute central committee—term.

HeinOnline -- 1965 387 1965

mittee, which power is vested in the county central committee. Each committeeman and committeewoman shall hold such position for the term of two (2) years from the date of the first meeting of said committee immediately following their election.

Vacancy.

(3) In case of a vacancy happening, on account of death, resignation, removal from the precinct, or otherwise, the remaining members of said county committee may select a committeeman or committeewoman to fill the vacancy and he shall be a resident of the precinct in which the vacancy occurs. Said county and city central committees shall have the power to make rules and regulations for the government of their respective political parties in each county and city, not inconsistent with any of the provisions of this law, *and not inconsistent with the rules and regulations of their state political parties,* and to elect two (2) county members of the state central committee, one (1) of which shall be a man and one (1) of which shall be a woman, and the members of the congressional committee, and said committee shall have the same power to fill all vacancies and make rules in their jurisdiction that the county committees have to fill county vacancies and to make rules. In the event there is no county central committee in any county the state central committee of the political party having no county central committee in said county shall appoint a county central committee therein to consist of committeemen and committeewomen as herein provided and said county central committee shall have the same powers and duties as county central committee elected, as now provided by law.

Power of committees.

Nomination to fill vacancies.

(4) Said county and city central committee shall have the power to make nomination to fill vacancies occurring among the candidates of their respective parties nominated for city or county offices by the primary nominating election where such vacancy is caused by death, resignation or removal from the electoral district, but not otherwise.

Election of committee chairman —officers.

(5) *Prior to the state convention of its political party* said committee shall meet, and shall organize by electing a chairman and one (1) or more vice-chairmen, provided that either the chairman or first vice-chairman shall be a woman. They shall also elect a secretary and such other

HeinOnline -- 1965 388 1965

officers as they shall think proper. It shall not be necessary for such officers to be precinct committeemen or committeewomen. They may select managing or executive committees and authorize such subcommittees to exercise any and all powers conferred upon the county, city, state and congressional central committees respectively by this law. The chairman of the county central committee shall call said central committee meeting and not less than *four (4)* days before the date of said central committee meeting shall publish said call in a newspaper published at the county seat and shall mail a copy of the call, enclosing a blank proxy, to each precinct committeeman. No proxy shall be recognized unless held by an elector of the precinct of the committeeman executing the same.

Meeting.

(6) The county chairman of the party shall preside at the county convention. No person other than a duly elected or appointed committeeman, committeewoman, or officer of the committee shall be entitled to participate in the proceedings of the committee. No proxy shall be recognized unless held by an elector of the precinct of the committeeman or committeewoman executing the same. In case of the absence of any committeeman or committeewoman and his or her duly appointed proxy, the convention may fill the vacancy by appointing some qualified elector of the party, resident in the precinct, to represent such precinct in the convention.

Presiding chairman.

(7) The county convention shall elect delegates and alternate delegates to attend the state convention *under the rules and regulations of the state party*. The chairman and secretary of the county convention shall issue and sign certificates of election of said delegates."

Election of delegates.

Section 8. Section 23-1008, R. C. M. 1947, is amended to read as follows:

Amending clause.

"23-1008. **Payment of convention expenses.** The entire expense of conducting the county and state conventions shall be defrayed by the several political parties, except that each elected delegate or alternate who shall attend *any* state convention *which is held for the purpose of nominating presidential electors* and participate therein, shall receive the sum of *eight (8)* cents per mile for each mile actually travelled by him in going to and returning from said convention, said mileage to be computed by the shortest practicable route, and to be paid out of the general

Payment of convention expense.

HeinOnline -- 1965 389 1965

funds of the county in the same manner as other election expenses."

Amending clause.

Section 9. Section 23-1117, R. C. M. 1947, is amended to read as follows:

Ballots.

"23-1117. **Number of ballots to be provided for each precinct.** The county clerk must provide for each election precinct in the county *sufficient* ballots *for the* electors registered in the precinct. If there is no registry in the precinct, the county clerk must provide ballots equal to the number of electors who voted at the last preceding election in the precinct, unless in the judgment of the county clerk a greater number be needed, but in no case to exceed one and one-half times as many as the number of registered voters in the precinct. He must keep a record in his office, showing the exact number of ballots, that are delivered to the judges of each precinct. In municipal elections it is the duty of the city clerk to provide ballots as specified in this section."

Amending clause.

Section 10. Section 23-1611, R. C. M. 1947, is amended to read as follows:

Election returns—voting machines.

"23-1611. **Election returns.** (1) The judges, as soon as the count is completed and fully ascertained, shall place the machine for one (1) hour in such a position that the registering or recording compartments will be in full view of the public and any person desiring to view the number of votes cast for each person voted for at the election, must be permitted to do so. Immediately after the above said one (1) hour shall have expired the judges shall seal, close, lock the machine or remove the record so as to provide against voting or being tampered with, and in case of a machine so sealed or locked, it shall so remain for a period of at least *twenty (20)* days, except when used in a municipal primary nominating election, unless opened by order of a court of competent jurisdiction or the county recount board. Whenever a machine has been used in a municipal primary nominating election, it shall remain sealed and locked for a period of at least five (5) days, unless opened by order of a court of competent jurisdiction. When irregular ballots have been voted, the judges shall return them in a properly sealed package endorsed 'irregular ballots,' and indicating the precinct and county and file such package with the city or county clerk. It shall be preserved for six (6) months

Irregular ballots.

HeinOnline -- 1965 390 1965

after such election and may be opened and its contents examined only upon an order of a court of competent jurisdiction or the county recount board; at the end of such six (6) months unless ordered otherwise by the court, such package and its contents shall be destroyed by the city or county clerk. All tally sheets taken from such machine, if any, shall be returned in the same manner.

Tally sheets and return blanks—certificates.

(2) The officers heretofore charged with the duty of furnishing tally sheets and return blanks shall furnish suitable return blanks and certificates to the officers of election. Such return sheets shall have each candidate's name designated by the same reference character that said candidate's name bears on the ballot labels and counters, and shall make provision for writing in of the vote for such candidate in figures and shall also provide for writing in of the vote in words. Such return sheet shall also provide for the return of the vote on questions. It shall also have a blank thereon, on which can be marked the precinct, ward, etc., of which said return sheet bears the returns and the number and make of the machine used. Said return sheet shall also have a certificate thereon, to be executed before the polls open by the judges of election, stating that all counters except the protective counter, if any, and except as otherwise noted thereon, stood at '000' at the beginning of the election, and that all of said counters had been carefully examined before the beginning of the election; that the ballot labels were correctly placed on the machine and correspond to the sample ballot, and such other statements as the particular machine may require; and shall provide for the signature of the election officers. Said return sheet shall also have thereon a second certificate stating the manner of closing the polls, the manner of verifying the returns, that the foregoing returns are correct, giving the indication of the public counter, and poll-list, and protective counter, if any, at the close of the election. Such certificate shall properly specify the procedure of canvassing the vote and locking the machine, etc., for the particular type of machine used, and such certificate shall be such that the election officers can properly subscribe to it as having been followed and shall have provisions for the signature of the election officers. The election officers shall conform their procedure to that speci-

HeinOnline -- 1965 391 1965

fied in the certificate to which they must certify. The certificate and attest of the election officers shall appear on each return sheet."

Repealing clause.

Section 11. Sections 23-930, 23-932, 23-1002, 23-1006, 23-1007, R. C. M. 1947, are repealed.

Approved March 4, 1965.

CHAPTER 157

An Act to Amend Sections 69-1301, 69-1309, 69-1314, R. C. M. 1947, by Inserting Terms to Include Wells and Underground Waters Hitherto Not Expressly Included in This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-1301, R. C. M. 1947, is amended to read as follows:

State board of health—scope of responsibility.

"69-1301. That the state board of health shall have the general oversight and care of all inland waters and of all streams, lakes and ponds *and all springs, wells and underground waters in close proximity to areas being polluted and* used by any city, town, or public institution, or by any water or ice company or person in this state, as sources of water supply for domestic use, and of all *wells, underground waters,* springs, streams and watercourses tributary thereto. It shall be provided with maps, plans, and documents suitable for such purposes, and shall keep records of all its transactions relative thereto."

Amending clause.

Section 2. Section 69-1309, R. C. M. 1947, is amended to read as follows:

Purification of waste water—conditions and restrictions.

"69-1309. That no sewerage, drainage, refuse, or polluting matter, of such kind and amount as either of itself or in connection with other matter, will corrupt, pollute, or impair the quality of the water of any spring, pond, lake, or stream *or wells or other underground waters* used as a source of water or ice supply by a city, town or public institution or water or ice company or person for domestic use, or render it injurious to health, and no human excrement shall be discharged into any such stream, spring, lake, pond, or upon their banks or into any feed-

HeinOnline -- 1965 392 1965

ers of such spring, lake, pond, stream *or into any abandoned or operating water well* unless such sewerage, drainage, refuse, or polluting water shall have been purified, so as to render it harmless in such a manner and under such conditions and restrictions as the state board of health may direct."

Section 3. Section 69-1314, R. C. M. 1947, is amended to read as follows: Amending clause.

"69-1314. Upon complaint to the state board of health, or the mayor or health officer of any city or town, or the managing board or officer of any public institution, or the president of an ice company, *or person in this state* stating that manure, excrement, garbage, sewerage, or any other matter which pollutes or tends to pollute the waters of any lake, pond, spring, stream, watercourse *or well or other underground water located in close proximity to areas being polluted and* used by such city or town, public institution, company *or person in this state* as a source of water supply, the said board shall cause a thorough investigation to be made of such alleged nuisance or pollution, and if, in its judgment, the public health so requires, shall, by order served upon the party causing or permitting such pollution, prohibit the continuance of such pollution, and shall order him to remove any such cause of pollution." Complaint—investigation—order to prohibit pollution.

Approved March 4, 1965.

CHAPTER 158

An Act to Amend Sections 11-725, 11-726, 11-728, 11-729 and 11-731, R. C. M. 1947, Pertaining to Salaries and Qualifications of Mayors and Aldermen, and Salaries of Police Judges, City and Town Treasurers, City and Town Clerks and City Attorneys by Providing for Increased Salaries for Mayors, Aldermen, Police Judges, City and Town Treasurers, City and Town Clerks and City Attorneys in First, Second and Third Class Cities and Towns and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-725, R. C. M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1965 393 1965

Salaries and qualifications of mayor and aldermen.

"11-725. **Salaries and qualifications of mayor and aldermen.** The annual salary of a mayor *must be fixed by ordinance, and in* a city with a populaton of more than fifty thousand (50,000) persons, according to the last federal census, shall be not more than *eight thousand four hundred dollars ($8,400.00)*; the annual salary of a mayor of a city with a population of not less than twenty-five thousand (25,000) and not more than fifty thousand (50,000) persons, according to the said census, shall be not more than *seven thousand two hundred dollars ($7,200.00)*; the annual salary of a mayor of a city of the first class, having a population of less than twenty-five thousand (25,000) persons, according to said census, must not exceed *six thousand dollars ($6,000.00)*; and the annual salary of the mayor of a city of the second class must not exceed *three thousand six hundred dollars ($3,600.00)*; and the annual salary of the mayor of a city of the third class must not exceed *three thousand dollars ($3,000.00)*; and each alderman in a city of the first class may be allowed and paid not exceeding *twenty dollars ($20.00)* per diem for each day of session, to be fixed by ordinance; and aldermen of cities of the second and third class may be allowed and paid not exceeding *sixteen dollars ($16.00)* per diem for each day of session, to be fixed by ordinance, but no alderman of second and third class cities shall be paid for more than two (2) days' service during any one (1) month. The council of any town may by ordinance set compensation for a mayor and alderman at *fifteen dollars ($15.00)* per meeting, but in no event shall they be paid to exceed *two (2)* meetings per month. No person shall be elected to the office of mayor or alderman in any city or town who is not a resident and freeholder within the limits of the city or town."

Amending clause.

Section 2. Section 11-726, R. C. M. 1947, is amended to read as follows:

Salaries of police judges.

"11-726. **Salaries of police judges.** The annual salary and compensation of police judges must be fixed by ordinance, and in a city of the first class having a population of more than fifty thousand (50,000) persons according to the last federal census, must not exceed, for all services rendered *six thousand dollars ($6,000.00)*; and in cities of the first class with a population of not less than twenty-five thousand (25,000) and not more than fifty thousand (50,000) persons, according to the last fed-

HeinOnline -- 1965 394 1965

eral census, the annual salary and compensation of police judges must not exceed, for all services rendered, *five thousand four hundred dollars ($5,400.00)*; in all other cities of the first class said salary and compensation must not exceed, for all services rendered, *four thousand five hundred dollars ($4,500.00)*; and in a city of the second class said salary and compensation must not exceed *two thousand four hundred dollars ($2,400.00)*; and in a city of the third class said salary and compensation must not exceed *one thousand two hundred dollars ($1,200.00)*; and, in addition, a police judge is entitled to receive in all civil cases the fees which are now or may hereafter be allowed justices of the peace. In all criminal actions or proceedings arising under the criminal laws of the state, when acting as a justice of the peace or committing magistrate, he must receive no compensation whatever; provided, however, that none of the provisions of this act shall affect cities operating under the commission form of government."

Amending clause.

Section 3. Section 11-728, R. C. M. 1947, is amended to read as follows:

Salary of city treasurer.

"11-728. **Salary of city treasurer.** The annual salary and compensation of the treasurer must be fixed by ordinance, and must be for all services rendered by such treasurer in any capacity, (except, however, in cases where a city of the third class or a town owns and operates a public utility or utilities and receives revenue therefrom as hereafter in this section provided) and no treasurer must be allowed any percentages or fees in addition thereto. In cities of the first class, the annual salary of the treasurer must not exceed *six thousand dollars ($6,000.00)*, in cities of the second class must not exceed *thirty-six hundred dollars ($3,600.00)*, and in cities of the third class it must not exceed *twenty-four hundred dollars ($2,400.00)*, and in towns it must not exceed *eighteen hundred dollars ($1,800.00)*; provided, however, that where a city of the third class, or a town shall own and operate a public utility or utilities such as water supply, waterworks, gas, lighting system, or utilities similar to the foregoing, and receives the revenue derived therefrom, then the treasurer of such city, or town, may be paid additional salary or compensation to be fixed by ordinance and the duties of the treasurer with reference to the collection and safekeeping of the revenues derived from such public

HeinOnline -- 1965 395 1965

utilitis shall likewise be fixed by ordinance and the amount of such additional salary or compensation shall be in accordance with the additional duties and responsibilities placed upon the treasurer by reason of such public utility or utilities and shall be in such amount as the council may determine."

Amending clause.

Section 4. Section 11-729, R. C. M. 1947, is amended to read as follows:

Salary of city attorney.

"11-729. **Salary of city attorney.** The annual salary and compensation of the city attorney must be fixed by ordinance, and must not exceed, in cities of the first class having a population in excess of fifty thousand (50,000) persons according to the last federal census, *six thousand dollars ($6,000.00)*, and in cities of the first class having a population of not less than twenty-five thousand (25,000) and not more than fifty thousand (50,000) persons according to the last federal census, the annual salary and compensation must not exceed *fifty-four hundred dollars ($5,400.00)*; and the annual salary and compensation of city attorneys in all other cities of the first class must not exceed *five thousand one hundred dollars ($5,100.00)*, and in cities of the second class must not exceed *three thousand six hundred dollars ($3,600.00)*, and in cities of the third class must not exceed *two thousand four hundred dollars ($2,400.00)*, which compensation shall be in full for all services rendered in any capacity, and no fee, percentage or additional compensation must be given to or allowed him."

Amending clause.

Section 5. Section 11-731, R. C. M. 1947, is amended to read as follows:

Salary of city or town clerk.

"11-731. **Salary of city or town clerk.** The annual salary and compensation of the city or town clerk must be fixed by ordinance, and in cities with a population of more than fifty thousand (50,000) persons, according to the last federal census, shall be not more than *seven thousand two hundred dollars ($7,200.00)*; in cities with a population of not less than twenty-five thousand (25,000) and not more than fifty thousand (50,000) persons, according to the last federal census, the annual salary and compensation must not exceed six thousand dollars ($6,000.00); in cities of the first class with a population of less than twenty-five thousand (25,000) persons, according to said census, must not exceed five thousand

HeinOnline -- 1965 396 1965

four hundred dollars ($5,400.00); in cities of the second class the annual salary and compensation must not exceed *four thousand eight hundred dollars ($4,800.00)*. In cities of the third class the compensation must not exceed *three thousand dollars ($3,000.00)*, and in towns must not exceed one thousand eight hundred dollars ($1,800.00); provided, however, that nothing in this section shall be held or construed as applying to cities and towns operating under the commission form of government."

Section 6. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved March 4, 1965.

CHAPTER 159

An Act Relating to Insider Trading of Domestic Stock Insurance Company Equity Securities.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Every person who is directly or indirectly the beneficial owner of more than ten percent (10%) of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file with the commissioner of insurance within ten (10) days after he becomes such beneficial owner, director or officer, a statement in such form as the commissioner may prescribe, of the amount of all equity securities of such company of which he is the beneficial owner, and within ten (10) days after the close of each calendar month thereafter. If there has been a change in such ownership during such month, such person shall file with the commissioner a statement, in such form as the commissioner may prescribe, indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during such calendar month.

Owner of more than 10% of equity security of a domestic stock insurance company or director or officer thereof shall file a statement of equity with insurance commissioner.

Section 2. For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director or officer by reason of his relationship to such company, any profit realized by him from any purchase and sale, or any sale and purchase, of any equity security of such company within

Company shall recover profit realized by beneficial owner, officer or director unless the security was acquired in good faith.

HeinOnline -- 1965 397 1965

any period of less than six (6) months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the company, irrespective of any intention on the part of such beneficial owner, director or officer in entering into such transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding six (6) months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company, or by the owner of any security of the company in the name and in behalf of the company if the company shall fail or refuse to bring such suit within sixty (60) days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than two (2) years after the date such profit was realized.

Exemption.

This section shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the commissioner by rules and regulations may exempt as not comprehended within the purpose of this section.

Unlawful for any beneficial owner, director or officer to sell equity security if seller does not own the security or does not deliver.

Section 3. It shall be unlawful for any such beneficial owner, director or officer, directly or indirectly, to sell any equity security of such company if the person selling the security or his principal (i) does not own the security sold, or (ii) if owning the security, does not deliver it against such sale within twenty (20) days thereafter, or does not within five (5) days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this section if he proves that notwithstanding the exercise of good faith he was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

Provisions of sections 2 and 3 shall not apply—when.

Section 4. The provisions of section 2 of this act shall not apply to any purchase and sale, or sale and purchase, and the provisions of section 3 of this act shall not apply to any sale, of an equity security of a domestic stock insurance company not then or theretofore held by him in an investment account, by a broker-dealer in the ordinary course of his business and incident to the establishment or maintenance by him of a primary or secondary

HeinOnline -- 1965 398 1965

market (otherwise than on an exchange as defined in the Securities Exchange Act of 1934) for such security. The commissioner may, by such rules and regulations as he deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

Foreign or domestic arbitrage transactions exempted.

Section 5. The provisions of sections 1, 2, and 3 of this act shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the commissioner may adopt in order to carry out the purposes of this act.

"Equity security."

Section 6. The term "equity security" when used in this act means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the commissioner shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as he may prescribe in the public interest or for the protection of investors, to treat as an equity security.

Equity securities of a domestic stock insurance company exempted —when.

Section 7. The provisions of sections 1, 2, and 3 of this act shall not apply to equity securities of a domestic stock insurance company if (a) such securities shall be registered, or shall be required to be registered, pursuant to section 12 of the Securities Exchange Act of 1934, as amended, or if (b) such domestic stock insurance company shall not have any class of its equity securities held of record by one hundred (100) or more persons on the last business day of the year next preceding the year in which equity securities of the company would be subject to the provisions of sections 1, 2, and 3 of this act except for the provisions of this subsection (b).

Commissioner may make necessary rules and regulations.

Section 8. The commissioner may make such rules and regulations as may be necessary for the execution of the functions vested in him by sections 1 through 7 of this act, and may for such purpose classify domestic stock insurance companies, securities, and other persons or matters within his jurisdiction. No provision of sections 1, 2, and 3 of this act imposing any liability shall apply to

HeinOnline -- 1965 399 1965

any act done or omitted in good faith in conformity with any rule or regulation of the commissioner notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

Approved March 4, 1965.

CHAPTER 160

An Act to Provide for the Regulation of Commodities Put Up in Packages in Advance of Being Offered, or Exposed for Sale, Sold, or in the Process of Delivery; to Provide for the Method of Sale, Advertisement, and Enforcement; Repealing Sections 90-130, 90-132, 90-144, and 90-301, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Meaning of terms when used in this act:

"Person." (1) The word "person" means both the plural and singular, as the case demands, and shall include individuals, partnerships, corporations, companies, societies, and associations.

"Sell" and "sale." (2) The words "sell" and "sale" shall also mean barter and exchange.

"State sealer" and "deputy sealer." (3) The terms "state sealer" and "deputy sealer" mean, respectively, the commissioner of agriculture of the state of Montana and his deputy sealers of weights and measures of the state of Montana.

"Container." (4) The word "container" means any receptacle or carton into which a commodity is packed, or any wrappings with which any commodity is wrapped or put up for sale, or to be offered or exposed for sale.

"Intrastate commerce." (5) The term "intrastate commerce" means any and all commerce or trade that is begun, carried on, and completed wholly within the limits of the state of Montana, and the phrase "introduced into intrastate commerce" defines the time and place at which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the pur-

HeinOnline -- 1965 400 1965

chaser or to a common carrier for shipment to the purchaser.

"Commodity in package form."

(6) The term "commodity in package form" means commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages that individually conform to the requirements of this act. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, shall be construed to be commodity in package form.

Investigations.

Section 2. **Investigations.** The state sealer or his deputy sealers shall investigate complaints made to him concerning violations of the provisions of this act, and shall, upon his own initiative, conduct such investigations as he deems appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of the provisions of this act and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions. If the state sealer or his deputy sealers have reason to believe that any person is violating any provision of this act, or any act relating to weights and measures, they shall submit the evidence to the properly constituted authority in the county in which such violation occurs, who shall thereupon prosecute the persons alleged to have violated any provision of this act, or any act relating to weights and measures, or such evidence may be submitted direct to the attorney general of the state, who shall have authority to prosecute such persons in the proper county.

Submission of evidence —prosecution.

Inspection of packages— marking— sampling.

Section 3. **Inspection of packages.** The state sealer or his deputy sealers shall, from time to time, weigh or measure and inspect packages or amounts of commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether the same contain amounts represented and whether they be kept, offered, or exposed for sale, or sold, in accordance with law; and when such packages or amounts of commodities are found not to contain the amount represented, or are found to be kept, offered, or exposed for sale in violation of law, the state sealer or his deputy sealers may order them off sale

HeinOnline -- 1965 401 1965

and may so mark or tag them as to show them to be illegal. In carrying out the provisions of this section, the state sealer or his deputy sealers may employ recognized sampling procedures under which the compliance of a given lot of packages will be determined on the basis of the result obtained on a sample selected from and representative of such lot. No person shall:

Commodity ordered off sale—unlawful handling.

(1) sell, or keep, offer, or expose for sale, in intrastate commerce any package or amount of commodity that has been ordered off sale or marked or tagged as provided in this section unless and until such package or amount of commodity has been brought into full compliance with all legal requirements, or

(2) dispose of any package or amount of commodity that has been ordered off sale or marked or tagged as provided in this section and that has not been brought into compliance with legal requirements, in any manner except with the specific approval of the state sealer.

Stop-use, stop-removal, and removal orders.

Section 4. **Stop-use, stop-removal, and removal orders.** The state sealer or his deputy sealers shall have the power to issue stop-use orders, stop-removal orders, and removal orders with respect to packages or amounts of commodities kept, offered, or exposed for sale, sold, or in process of delivery, whenever in the course of his enforcement of the provisions of this act he deems it necessary or expedient to issue such orders, and no person shall use, remove from the premises specified, or fail to remove from the premises specified, any package or amount of commodity contrary to the terms of a stop-use order, stop-removal order, or removal order issued under the authority of this section.

Police powers—right of entry and stoppage.

Section 5. **Police powers; right of entry and stoppage.** With respect to the enforcement of this act the state sealer and his deputy sealers are hereby vested with special police powers, and are authorized to arrest, without formal warrant any violator of the said acts, and to seize for use as evidence amounts or packages of commodities found to be used, retained, offered, or exposed for sale, or sold in violation of law. In the performance of his official duties, the state sealer or his deputy sealers is authorized to enter and go into or upon, without formal warrant, any structure or premises, and to stop any person whatsoever and to require him to proceed, with

HeinOnline -- 1965 402 1965

or without any vehicle of which he may be in charge, to some place which the sealer or his deputies may specify.

Method of sale of commodities —general.

Section 6. **Method of sale of commodities: General.** Commodities in liquid form shall be sold only by liquid measure or by weight, and, except as otherwise provided in this act, commodities not in liquid form shall be sold only by weight, by measure or length or area, or by count. Except that liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if such methods give accurate information as to the quantity of commodity sold. And provided further, that the provisions of this section shall not apply:

Section does not apply.

(1) to commodities when sold for immediate consumption on the premises where sold,

(2) to commodities in containers standardized by a law of this state or by federal law,

(3) to vegetables when sold by the head or bunch, if the vegetables are customarily so sold,

(4) to commodities in package form when there exists a general consumer usage to express the quantity in some other manner,

(5) to concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure, or

(6) to unprocessed vegetable and animal fertilizer when sold by cubic measure.

Regulations.

The state sealer may issue such reasonable regulations as are necessary to assure that amounts of commodity sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties at interest.

Declarations of quantity and origin —variations— exemptions.

Section 7. **Declarations of quantity and origin; variations: Exemptions.** Except as otherwise provided in this act, any commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale in intrastate commerce shall bear on the outside of the package a definite, plain, and conspicuous declaration of:

HeinOnline -- 1965 403 1965

(1) the identity of the commodity in the package unless the same can easily be identified through the wrapper or container,

(2) the net quantity of the contents in terms of weight, measure, or count, and

(3) in the case of any package kept, offered, or exposed for sale, or sold any place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor: Provided, that in connection with the declaration required under subsection two (2), neither the qualifying terms "when packed" or any words of similar import, nor any term qualifying a unit of weight, measure, or count (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in a package, shall be used: Provided further, that under subsection two (2) the state sealer shall, by regulation, establish:

Terms prohibited.

Variation and exemption by regulation.

(a) reasonable variations to be allowed, which may include variations below the declared weight or measure caused by ordinary and customary exposure, only after the commodity is introduced into intrastate commerce, to conditions that normally occur in good distribution practice and that unavoidably result in decreased weight or measure,

(b) exemptions as to small packages, and

(c) exemptions as to commodities put up in variable weights or sizes intact and either customarily not sold as individual units or customarily weighed or measured at the time of sale to the consumer.

Declaration of unit price on random packages.

Section 8. **Declarations of unit price on random packages.** In addition to the declarations required by section seven (7) of this act, any commodity in package form, the package being one of a lot containing random weights, measures, or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure, or count.

Misleading packages.

Section 9. **Misleading packages.** No commodity in package form shall be so wrapped, nor shall it be in a

HeinOnline -- 1965 404 1965

container so made, formed, or filled, as to mislead the purchaser as to the quantity of the contents of the package, and the contents of a container shall not fall below such reasonable standard of fill as may have been prescribed for the commodity in question by the state sealer. The state sealer or his deputy sealers, may seize any container, or its contents, or container and its contents, in violation of the provisions of this section and by order of a court having jurisdiction, the container or container and its contents or its contents, shall be condemned and destroyed or released upon such conditions as the court in its discretion may impose, to insure against their use in violation of this section.

Seizure of container or contents.

Section 10. **Advertising packages for sale.** Whenever a commodity in a package form is advertised in any manner and the retail price of the package is stated in the advertisement, there shall be closely and conspicuously associated with such statement of price a declaration of the basic quantity of contents of the package as is required by law or regulation to appear on the package. In connection with the declaration required under this section there shall be declared neither the qualifying term "when packed" nor any other words of similar import, nor any term qualifying a unit of weight, measure, or count (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in the package.

Advertising packages for sale.

Terms prohibited.

Section 11. **Sale by net weight.** The word "weight" as used in this act in connection with any commodity shall mean net weight. Whenever any commodity is sold on the basis of weight, the net weight of the commodity shall be employed, and all contracts concerning commodities shall be so construed.

Sale by net weight—"weight."

Section 12. **Misrepresentation of price.** Whenever any commodity or service is sold, or is offered, exposed, or advertised for sale, by weight, measure, or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numeral or numerals expressing the frac-

Misrepresentation of price.

HeinOnline -- 1965 405 1965

tion shall be immediately adjacent to, of the same general design and style as, and at least one-half (½) the height and width of the numerals representing the whole cents.

Meat, poultry, and sea food.

Section 13. **Meat, poultry, and seafood.** Except for immediate consumption on the premises where sold, or as one of several elements comprising a ready-to-eat meal sold as a unit for consumption elsewhere than on the premises where sold, all meat, meat products, poultry (whole or parts), and all seafood except shellfish, offered or exposed for sale, or sold, as food shall be offered or exposed for sale and sold by weight. When meat, poultry or seafood is combined with or associated with some other food element or elements to form either a distinctive food product or a food combination, such food product or combination shall be offered or exposed for sale and sold by weight, and the quantity representation may be the total weight of the product or combination, and a quantity representation need not be made for each of the several elements of the product or combination.

Bread.

Section 14. **Bread.** Each loaf of bread and each unit of a twin or multiple loaf of bread, made or procured for sale, kept, offered, exposed for sale, or sold, whether or not the bread is wrapped or sliced, shall weigh one-half (½) pound, one (1) pound, one and one half (1½) pounds, or a multiple of one (1) pound, avoirdupois weight, within reasonable variations or tolerances that shall be promulgated by regulation by the state sealer.

Exception.

Except that the provisions of this section shall not apply to biscuits, buns, or rolls weighing less than eight (8) ounces, or to "stale bread" sold and expressly represented at the time of sale as such, and that the marking provisions of section seven (7) shall not apply to unwrapped loaves of bread.

Berries and small fruits.

Section 15. **Berries and small fruits.** Berries and small fruits shall be offered and exposed for sale and sold by weight, or by measure in open containers having capacities of one-half (½) dry pint, one (1) dry pint, or one (1) dry quart. Provided, that the marking provisions of section seven (7) of this act shall not apply to such containers.

HeinOnline -- 1965 406 1965

Section 16. **Textile products.** It shall be unlawful to keep for the purpose of sale, offer or expose for sale, or sell, any textile yard goods put up or packaged in advance of sale in a bolt or roll, or any other textile product put up or packaged in advance of sale in any other unit, for either wholesale or retail sale, unless such bolt or roll, or such other unit, be definitely, plainly, and conspicuously marked to show its net measure in terms of yards or its net weight in terms of avoirdupois pounds or ounces, subject, however, to the following limitations and requirements: Textile products.

(1) Any unit of twine or cordage may be marked to show its net measure in terms of feet. Ready-wound bobbins that are not sold separately shall not be required to be individually marked, but the package containing such bobbins shall be marked to show the number of bobbins contained therein and the net weight or measure of the thread on each bobbin. Any unit of sewing, basting, mending, darning, crocheting, tatting, hand-knitting, or embroidery thread or yarn, except nylon hand-knitting yarn, that is not composed in whole or in part of wool, the net weight of which is less than two ounces avoirdupois, shall be marked to show its net measure in terms of yards as unwound from the ball or from the spool or other holder. Any retail unit of a textile product, sold only for household use, consisting of a package containing two or more similar individual units that are not sold separately, shall be marked to show the number of individual units in the package and the net weight or net measure of the product in each individual unit, but this proviso shall not apply where the individual units are separately marked. Any unit of yarn, composed in whole or in part of wool, sold to consumers for handiwork, shall be marked to show the net weight of such yarn, except that any unit of tapestry, mending, or embroidery yarn, the net measure of which does not exceed fifty yards, may be marked to show its linear measure only. Twine or cordage.

(2) The marking required by this section shall in all cases be in combination with the name and place of business of the manufacturer, packer, or distributor of the product, or a trademark, symbol, brand, or other mark that positively identifies such manufacturer, packer, or distributor. Marking in combination with

HeinOnline -- 1965 407 1965

Reasonable tolerances.

(3) Reasonable tolerances shall be permitted, and these shall be included in regulations for the enforcement of the provisions of this section that shall be issued by the state sealer.

Section does not include.

(4) The provisions of this section shall not apply to the following textile products when sold at wholesale in bulk by net weight: Cordage, agricultural bag sewing threads, twines, yarns that are to be processed, and yarns that are to be industrially converted into end use products.

Construction of contracts.

Section 17. **Construction of contracts.** Contracts for work done, or anything to be sold by weight or measure, shall be construed according to the standards hereby adopted as the standards of this state, except where the parties have agreed upon any other calculations of measurement, and all statements and representations of any kind referring to the weight or measure of commodities or articles of merchandise shall be understood in the terms of the standards of weights and measures aforesaid.

Hindering or obstructing officer —penalty.

Section 18. **Hindering or obstructing officer; penalty.** Any person who shall hinder or obstruct in any way the state sealer or his deputy sealers in the performance of his official duties shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars ($20) or more than two hundred dollars ($200).

Injunction.

Section 19. **Injunction.** The state sealer is authorized to apply to any court of competent jurisdiction for, and such court for cause shown may grant, a temporary or permanent injunction restraining any person from violating any provision of this act.

Offenses and penalties.

Section 20. **Offenses and penalties.** Any person who by himself or by his servant or agent, or as the servant or agent of another person, performs any one of the acts enumerated in subsections one (1) through five (5) of this section shall be guilty of a misdemeanor and, upon a first conviction thereof, shall be punished by a fine of not less than twenty dollars ($20) or more than two hundred dollars ($200); and upon a second or subsequent conviction thereof, he shall be punished by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500).

HeinOnline -- 1965 408 1965

Unlawful acts.

(1) Sell, or offer or expose for sale, less than the quantity he represents of any commodity, thing, or service.

(2) Take more than the quantity he represents of any commodity, thing, or service, when, as buyer, he furnishes the weight or measure by means of which the amount of the commodity, thing, or service is determined.

(3) Keep for the purpose of sale, advertise, or offer or expose for sale, or sell, any commodity, thing, or service in a condition or manner contrary to law or regulation.

(4) Violate any provision of this act or of the regulations promulgated under the provisions of this act for which a specific penalty has not been prescribed.

(5) Refuse to exhibit any article, commodity or the container of any commodity, or anything being sold or offered for sale at a given weight or quantity, or ordinarily so sold, to the state sealer or his deputy sealers, for the purpose of allowing the same to be tested and proved as to the quantity contained therein as in this act provided; or for the purpose of allowing the same to be inspected to ensure that all other requirements of this act have been complied with.

Saving clause.

Section 21. **Saving clause.** This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act.

Severability clause.

Section 22. **Severability clause.** It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Supplement clause.

Section 23. **Supplement clause.** This act is intended to be supplementary, and is not intended to repeal sections 90-140 and 90-141, R. C. M. 1947, or any other law relating to weights and measures.

Repealing clause.

Section 24. **Repealing section.** Sections 90-130, 90-132, 90-144 and 90-301, R. C. M. 1947, are repealed.

Approved March 4, 1965.

HeinOnline -- 1965 409 1965

CHAPTER 161

An Act Providing for the Protection of the Public Health by Authorizing the State Board of Health to Control Public Swimming Pools and Bathing Places, Definitions Authorizing the State Board of Health to Supervise Public Swimming Pools and Bathing Places, Requiring Plans be Filed With the State Board of Health and Approval Obtained Before Construction, Requiring Pools and Bathing Places to be Operated in a Sanitary, Healthful and Safe Manner, Authorizing the State Board of Health to Make and Enforce Rules and Regulations, Authorizing County Health Officials to Enforce Rules and Regulations of the State Board of Health, Authorizing Inspection, Authorizing Publication of Reports of Inspection, Declaring Pools and Bathing Places Operating Contrary to the Provisions of This Act a Nuisance, Authorization of Nuisance Abatement, Setting Forth Penalties, Repealing All Acts or Parts of Acts in Conflict With This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Extension of law for control and regulations of swimming pools and bathing places serving the public.

Section 1. It is hereby found and declared that the public health and safety requires control and regulation of swimming pools and bathing places serving the public to prevent endangering the lives and health of Montana citizens by improperly designed and operated swimming pools. It is declared the public policy of this State to extend the present laws concerning health to include public swimming pools, public bathing places, bathhouses and all related appurtenances.

"Public swimming pool."

Section 2. **Definitions.**

(a) "Public Swimming Pool" as used in this law is hereby defined as any artificial pool which shall be maintained and operated by a person or persons for the purpose of swimming, wading or bathing either free of charge or for a fee including natural hot water pools, but excluding residential swimming pools or medicinal hot water baths for individual use.

"Public bathing place."

(b) "Public Bathing Place" is defined as natural or artificially constructed lakes, ponds, reservoirs, and rivers, streams, dredge cuts or similar bodies of water which are provided with natural or artificially constructed beaches and which are operated as public swim-

HeinOnline -- 1965 410 1965

ming or wading areas by any person or persons either free of charge or for a fee and which may or may not be provided with bathhouses, cabanas or change houses for use of the public.

"Residential swimming pool."

(c) "Residential Swimming Pool" is any swimming pool located on private property under control of the home owner, the use of which is limited to swimming or bathing by members of his family or their invited guests. Residential swimming pools are excluded from this act.

"Person."

(d) "Person" means the State or any instrumentality thereof, any municipality, political subdivision, institution, school, school district, public or private corporation, partnership, individual club, organization, or other entity.

State board of health to supervise sanitation of public swimming pools and bathing places.

Section 3. The State Board of Health, through its Secretary and employees, and through local, county and district health officers, sanitarians or other authorized representatives, shall supervise the sanitation and healthfulness of public swimming pools and public bathing places. Every person planning to construct a public swimming pool or develop a public bathing area shall file a copy of the plans prior to construction with the State Board of Health for review and approval before construction is begun.

Approval of construction.

Public swimming pools and bathing places shall be operated in a sanitary manner.

Section 4. Every person operating or maintaining a public swimming pool or public bathing place shall do so in a sanitary, healthful and safe manner and shall keep such records of pertinent public health and safety information regarding the operation and maintenance of the swimming pool or public bathing place as the State Board of Health may require. Such data to be provided said Board upon forms prescribed and furnished by it.

Public swimming pool to be sanitary, healthful and safe at all times.

Section 5. Each public swimming pool, and public bathing place, including swimming pool structures, bathhouses, appurtenances, operation, source of water supply, method of water purification, lifesaving apparatus, measures to insure safety of bathers, and measures to insure personal cleanliness of bathers shall be such that the public swimming pool is at all times sanitary, healthful and safe.

Rules and regulations.

Section 6. The State Board of Health shall make and enforce necessary rules and regulations pertaining to

HeinOnline -- 1965 411 1965

public swimming pools and public bathing places to effectuate the purposes of this act.

Enforcement.

Section 7. Each local, county or district health officer and such employees as he may designate, shall enforce the rules and regulations adopted by the State Board of Health.

Authorized persons to have free access to premises of public swimming pools and bathing places.

Section 8. All persons authorized by this act or by regulations adopted under this act shall have free access, at all reasonable times, to enter all parts of the premises of a public swimming pool and public bathing place to make examination and investigation to determine the sanitary condition and whether this act or the rules and regulations adopted under this act are being violated.

Reports of inspection.

Section 9. The State Board of Health may publish the reports of inspection.

Facility operated contrary to law a public nuisance.

Section 10. Any public swimming pool or public bathing place constructed, operated or maintained contrary to the provisions of this law is declared a public nuisance, dangerous to public health.

Nuisance may be abated or enjoined.

Section 11. Any nuisance maintained in violation of this act may be abated or enjoined in an action brought by a local, county or district health officer, or the State Board of Health, or it may be summarily abated in the manner provided by law for the summary abatement of other public nuisances dangerous to health.

Violation—penalty.

Section 12. Every person who violates any provision of this act, or the rules and regulations adopted pursuant thereto, shall be deemed guilty of a misdemeanor, punishable by a fine of not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500.00) or by imprisonment for not more than six (6) months, or both.

Each day is separate offense.

Section 13. Each day that a violation of this law continues is a separate offense.

Repealing clause.

Section 14. All acts and parts of acts in conflict herewith are hereby repealed.

Severability clause.

Section 15. It is the intent of the Legislative Assembly that if a part of this act is invalid, all valid parts are severable from the invalid part and remain in effect. If a part of this act is invalid in one or more of its appli-

HeinOnline -- 1965 412 1965

cations, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 4, 1965.

CHAPTER 162

An Act to Define Long-Term Care Facility for Ill, Infirm or Aged Persons; Providing for Inspection, Licensing and Regulation of Such Facilities by the State Board of Health; Providing for Establishment of Standards for Physical Plant, Staff and Operation of Such Facilities; Providing Procedures for Issuance, Denial or Revocation of License and Administrative and Judicial Review Thereof; Making Unlicensed Operation of Such Facility Unlawful and Providing Penalties Therefor; Providing an Advisory Council to Assist the State Board of Health; Providing for Continuation of Existing Regulations Until Regulations Under This Act Are Adopted, Published and Distributed; Providing a Severability Clause; and Repealing Sections 69-2401, 69-2402, 69-2403, 69-2404, 69-2405, and 69-2406, R. C. M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definition of terms.** "Long-term care facility" means a private institution, building, residence or other place, whether operated for profit or not, which provides, through its operation or management, nursing, personal care, or maintenance, or combinations thereof to four or more persons who, by reason of illness or physical infirmity, are unable to properly care for themselves, or provides sheltered care to four or more aged persons who require such shelter, and are not related to the operator by blood or marriage, and includes:

"Long-term care facility."

(1) "Nursing home," being a facility furnishing skilled nursing care and related services to residents,

"Nursing home."

(2) "Personal care home," being a facility providing personal care and services to residents not in need of skilled nursing care,

"Personal care home."

(3) "Boarding home," being a facility providing only maintenance and sheltered care to residents, and,

"Boarding home."

HeinOnline -- 1965 413 1965

(4) combinations of nursing home, personal care home, and boarding home.

Long-term facility not to include.

"Long-term care facility" does not include: (a) a home, institution, or other place operated by the United States or any agency thereof, or by the state of Montana or a political subdivision thereof.

(b) any hospital, medical facility or related facility required to be licensed under Chapter 29 of Title 69, R. C. M., 1947, or amendments thereto.

(c) a hospital, sanitarium or other institution whose principal activity or business is the care and treatment of persons suffering from mental or nervous disease.

(d) hotels, motels, boarding houses, rooming houses or similar accommodations.

"Person."

"Person" means a natural person or persons, firm, partnership, association or corporation.

"Board."

"Board" means the state board of health of the state of Montana.

"Resident."

"Resident" means a person admitted to a home as a patient or for personal or sheltered care.

"Welfare."

"Welfare" means the enjoyment of health and the common blessings of life.

License required.

Section 2. **License required.** No person shall open, conduct, manage, or maintain a long-term care facility without a license from the state board of health.

Application for license, form and content.

Section 3. **Application for license, form and content.** Application to conduct and operate a long-term care facility shall be made to the state board of health in writing on forms furnished by it fifteen (15) days prior to the proposed opening, and annually thereafter. Each application for such license shall be accompanied by a license fee of twenty dollars ($20.00), which, if the license is granted shall be retained and deposited in the state treasury, or, if the application be denied the fee shall be returned to the applicant. The application shall contain (a) the name and address of the applicant if an individual, and if a firm, partnership or association, of every member thereof, and in the case of a corporation, the name and address thereof and of its officers;

Fee.

HeinOnline -- 1965 414 1965

(b) the location of the facility for which a license is sought;

(c) the name of the person or persons under whose management or supervision the facility will be conducted;

(d) the number and type of residents for which maintenance, care, or nursing is to be provided; and

(e) such information relating to the number, experience, and training of the employees of the facility as the board may require.

Minimum standards for physical plant and staff.

Section 4. **Minimum standards for physical plant and staff.** The board shall prescribe and publish minimum standards for all facilities, distinguishing between those for residents requiring nursing care, only personal care, only sheltered care, and facilities providing combinations of types of care. These standards shall relate to: (a) location and construction of the facility, including plumbing, heating, lighting, ventilation, and other housing conditions which inure to the health, safety, and comfort of residents and their protection from fire hazards, provided that in all non-fire-resistant homes two stories or more in height with ten or more residents, automatic sprinkler systems acceptable to the State Fire Marshal shall be installed, with said State Fire Marshal to issue for the information and use of the board, certificates of compliance with fire regulations and standards applicable to the facilities.

Standards relate to.

(b) numbers and qualifications of personnel, including managerial and nursing personnel, having responsibility for care given to residents.

(c) sanitary conditions in the facility and its grounds including water supply, sewage disposal, food handling, laundries and general hygiene inuring to the health and comfort of residents.

(d) diet based on good nutritional practice, the needs of residents and recommendations of the resident's attending physician.

(e) fixtures and equipment essential to the health and safety of residents.

Investigation and inspection by board —term of license

Section 5. **Investigation and inspection by the board; term of license.** Upon receipt of application for license

HeinOnline -- 1965 415 1965

hereunder, the board shall cause an inspection of premises to be used for such facility to be made by its authorized representative, and if satisfied that minimum standards are met and that the applicant and proposed staff are qualified, shall issue a license to operate for a period of one year. A provisional license for a period of less than one year may be issued by the board in its discretion when it determines that operation of a facility prior to qualification for regular license will not result in undue hazard to residents thereof or the demand for such facility accommodations are not otherwise reasonably met in the community at the time of application.

Inspection will be conducted annually upon receipt of application for renewal of license and may be conducted at such other times as deemed necessary for reported violations of this act or minimum standards, rules or regulations adopted to implement this act.

Denial of license —grounds.

Section 6. **Denial of license.** An application for license may be refused on any of the following grounds: (a) failure to meet minimum standards prescribed under Section 4 hereof.

(b) nursing or other staff personnel insufficient in number or not licensed as required by law, or unqualified by lack of training or experience properly to care for proposed number and type of residents.

(c) conviction of a felony as shown by certified copy of the judicial record of conviction of the applicant or of any of its members or officers or of a person designated to manage or supervise the facility; or other satisfactory evidence that the applicant, manager or supervisor of the facility possesses traits of character inimical to the health and safety of residents.

(d) financial inability to operate and conduct the facility in accord with the requirements of this act and the minimum standards, rules and regulations adopted thereunder, affecting the health, welfare and well being of the residents.

Revocation of license—reasons.

Section 7. **Revocation of license.** A license may be revoked, or a renewal thereof denied for any of the following reasons: (a) cruelty or indifference to the welfare of the residents;

HeinOnline -- 1965 416 1965

(b) misappropriation of the property or funds of the resident;

(c) conversion of the property of the resident without his consent;

(d) violation of any provision of this law or of the minimum standards, rules, or regulation of the board promulgated thereunder;

(e) any ground upon which an application for a license may be denied as prescribed in Section 6 hereof.

Notice, hearing and judicial review.

Section 8. **Notice, hearing and judicial review.** The board, after notice and opportunity for hearing to the applicant of licensee, is authorized to deny, suspend or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements established under this law. Such notice shall be effected by registered mail, or by personal service setting forth the particular reasons for the proposed action and fixing a date not less than thirty (30) days from the date of such mailing or service, at which the applicant or licensee shall be given an opportunity for a prompt and fair hearing. On the basis of any such hearing, or upon default of the applicant or licensee the board shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision revoking, suspending or denying the license or application shall become final thirty (30) days after it is so mailed or served, unless the applicant or licensee within such thirty (30) days' period, commences an action in the district court, pursuant to this section. The procedure governing hearings authorized by this section shall be in accordance with rules promulgated by the board with the advice of the advisory council. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless the decision is reviewed pursuant to this section. A copy or copies of the transcript may be obtained by any interested party on payment of the cost of preparing such copy or copies. Witnesses may be subpoenaed by either party.

Notice.

Hearing.

Judicial review.

Any applicant or licensee of the state aggrieved by the decision of the board after a hearing, may, within thirty (30) days after mailing or serving of notice of the

HeinOnline -- 1965 417 1965

decision as provided in this section, commence an action in the district court of the county in which the long term care facility is located or to be located, by the filing of a verified compliant against the board as defendant, and summons shall issue and all further proceedings be conducted as in the case of ordinary civil actions. The board shall, upon filing its answer, certify and file therewith in the Court wherein the action is pending a certified copy of the record and decision, including the complete transcript of the hearings on which the decision is based. Findings of fact by the board shall be conclusive unless substantially contrary to the weight of the evidence, or unless in conflict with law, but upon good cause shown the court may remand the case to the board to take further evidence, and the board may thereupon affirm, reverse or modify its decision. The court may affirm, modify or reverse the decision of the board and either the applicant or licensee or the board or state may apply for such further review by appeal or otherwise, as is provided by law. Pending final disposition of the matter the status quo of the applicant or licensee shall be preserved, except as the court otherwise orders in the public interest.

Facility open for inspection.

Section 9. **Facility to be open for inspection.** Premises proposed for use as a facility by an applicant for license, and premises used as a facility by a licensee shall be open at all reasonable times to inspection by the board or its authorized agents. The applicant or licensee shall furnish to the board or its agent such information, opportunity for observation, and access to records as the proper enforcement of this act and the rules and regulations implementary thereof require.

Records and reports.

Section 10. **Records and reports.** Every licensee shall keep such records and make such reports as the board shall prescribe under this act. An annual report containing statistical and informational data shall be submitted by each licensee for the preceding calendar year not later than January 31 of each year. Such report shall be submitted on forms supplied by the board.

Expiration of license—renewal —display—prohibition of transfer.

Section 11. **Expiration of license; renewal; display; prohibition of transfer.** A license shall expire one (1) year after date of issuance unless renewed or unless specifically issued for a lesser period. The expiration date

HeinOnline -- 1965 418 1965

shall be clearly shown on each license. The license shall be displayed in a conspicuous place inside the facility near the place where residents are admitted. A license shall be valid only in the hands of the person to whom it is issued and shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall a license be valid for any premises other than those for which originally issued. Upon discontinuance of the operation of the facility or transfer of ownership the license shall be returned to the board for cancellation.

Operational rules and regulations.

Section 12. **Operational rules and regulations.** In addition to the authority to prescribe minimum standards, the board shall adopt and enforce rules and regulations concerning the operation and conduct of long-term care facilities, and the care, treatment and maintenance of residents therein as it shall deem necessary for the protection of the health and welfare of residents. Such rules and regulations shall relate to: (a) age and physical requirements for admission;

Rules and regulations relate to.

(b) records of resident's medical history, funds, property and contract with the operator;

(c) medical supervision and resident care including use of physical restraints;

(d) reporting of contagious disease, epidemic outbreak or food poisoning;

(e) administration, storage and handling of medications, narcotics, barbiturates and compressed gases;

(f) visiting hours and areas.

Residents relying on treatment by spiritual means.

Section 13. **Residents relying on treatment by spiritual means.** Nothing in this law or the rules and regulations adopted pursuant thereto shall be construed as authorizing the medical supervision, regulation, or control of the remedial care or treatment of residents in any facility conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denomination. A license is required and all remaining rules and regulations and minimum standards shall apply.

Penalties.

Section 14. **Penalties.** The opening or operation of a long-term care facility as herein defined without a license therefore, or in violation of any provision of this law

HeinOnline -- 1965 419 1965

or any minimum standard, rule, regulation or order entered by the state board of health thereunder shall be a misdemeanor punishable, upon conviction, by a fine of not more than one hundred dollars ($100) for the first offense and not more than three hundred dollars ($300) for each subsequent offense, and each day of a continuing violation after conviction shall be considered a separate offense.

Advisory council—members—terms—meetings—compensation.

Section 15. **Advisory council.** The governor shall appoint a long-term care facility advisory council to consult with the board in matters of policy and in the development and revision of rules, regulations and standards affecting the administration of this act. The council shall consist of the executive officer of the board, who shall serve as chairman ex officio, the state director of public welfare, ex officio, one (1) individual of recognized ability in the field of nongovernment hospital administration, one (1) licensed physician, two (2) individuals of recognized experience in the operation of facilities providing nursing or personal or sheltered care to ill, infirm or aged persons, one (1) registered professional nurse and two (2) individuals with broad civic interests generally and a special interest in the health and welfare of persons in need of the services of long-term care facilities.

Each appointed member shall serve for a term of one (1) to three (3) years as designated by the governor in his appointment. In designating the duration of appointments the governor shall endeavor to avoid expiration of more than three (3) of the appointees' terms in any twelve (12) month period.

The advisory council shall meet at the call of the chairman. At the request of any four (4) of the appointed members, the chairman shall call a meeting of the council.

The members shall serve without compensation other than per diem at the rate of ten dollars ($10.00) per day and mileage at the rate of eight cents (8c) per mile in lieu of reimbursement for actual expenditures made in the course of their duties and that cost for such meetings come from the state board of health.

Effective date.

Section 16. **Effective date of regulations.** The minimum standards and rules and regulations heretofore pre-

HeinOnline -- 1965 420 1965

scribed by the board under Section 69-2405, R. C. M., 1947, as amended, shall remain in effect until minimum standards and rules and regulations adopted under this act shall have been published by the board and copies thereof transmitted to all then current applicants and licensees.

Repealing clause.

Section 17. **Repeal of existing statutes.** Sections 69-2401, 69-2402, 69-2403, 69-2404, 69-2405, and 69-2406, R. C. M., 1947, are repealed.

Severability clause.

Section 18. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 4, 1965.

CHAPTER 163

An Act Amending Section 89-102 (b), R. C. M. 1947, to Enlarge the Scope of State Water Conservation Board Purposes to Allow Construction of Flood Prevention, Drainage, Fish and Wildlife and Recreation Projects; Development of Power; Amending Section 89-102 (c), R. C. M. 1947, to Allow the State Water Conservation Board to Calculate the Value of Public Benefits as a Nonreimbursible Item in Determining the Cost of Construction; and Amending Section 89-102 (d), R. C. M. 1947, to Include Drainage Districts and Flood Control Districts as Owners.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 89-102, R. C. M. 1947, is amended to read as follows:

Definitions.

"89-102. **Definitions.** As used in this act, the following words and terms shall have the following meanings:

"Board."

(a) The word 'board' shall mean the state water conservation board hereinafter created.

"Works."

(b) The word 'works' shall be deemed to include all property, rights, easements and franchises relating there-

HeinOnline -- 1965 421 1965

to and deemed necessary or convenient for their operation, and all water rights acquired or exercised by the board in connection with such works, and shall embrace all means of conserving and distributing water, including, without limiting the generality of the foregoing, reservoirs, dams, diversion canals, distributing canals, *waste canals, drainage canals, dikes,* lateral ditches and pumping units, mains, pipelines and waterworks systems and shall include all such works for the conservation, development, storage, distribution and utilization of water including, without limiting the generality of the foregoing, works for the purpose of irrigation, *flood prevention, drainage, fish and wildlife, recreation,* development of power, watering of stock, supplying of water for public, domestic, industrial *or* other uses *and* for fire protection.

"Cost of works." (c) The term 'cost of works' shall embrace the cost of construction, the cost of all lands, property, rights, easements and franchises acquired, which are deemed necessary for such construction, the cost of all water rights acquired or exercised by the board in connection with such works, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for a period not exceeding three (3) years after the completion of construction, cost of engineering and legal expenses, plans, specifications, surveys, estimates of cost, and other expenses necessary or incident to determining the feasibility or practicability of any project, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized and the construction of the works and the placing of the same in operation*; provided, however, the board in determining the cost of works may make nonreimbursible allowances for costs of public benefits, including but not limited to, irrigation, recreation, flood prevention, fish and wildlife, and stream stabilization.*

"Owner." (d) The word 'owner' shall include all individuals, irrigation districts, *drainage districts, flood control districts,* incorporated companies, societies or associations having any title or interest in any properties, rights, easements or franchises to be acquired.

"Project." (e) The word 'project' shall mean any one of the works hereinabove defined or any combination of such works which are physically connected or jointly managed and operated as a single unit.

HeinOnline -- 1965 422 1965

(f) In case any water rights shall be acquired or exercised by the board in connection with two or more works and/or projects, the board by resolution shall apportion or allocate to each of such works and/or projects such part of such water rights as it may determine, and upon the adoption of such a resolution, such water rights shall be deemed to be a part of each of such works and/or projects to the extent that such water rights have been so apportioned or allocated thereto respectively." Apportionment or allocation of water rights.

Approved March 4, 1965.

CHAPTER 164

An Act to Establish Presumptions and Rules to Aid in Determining the Resident Status of Students Attending the University of Montana for Tuition and Fee Purposes and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is the intent of this act that the units of the university of Montana shall apply uniform rules, as prescribed in this act and not otherwise, in determining whether students shall be classified as resident or nonresident students for the purpose of charging tuition and additional fees for nonresident students as authorized by Section 75-506, R. C. M. 1947. Uniform rules in determination of resident or nonresident in regard to tuition fees for University of Montana.

Section 2. Wherever used in this act:

"Unit" shall mean a unit of the university of Montana. "Unit."

"Resident student" shall mean a student who has been domiciled in Montana for one year or more immediately preceding registration at any unit of the university of Montana for any term or session for which resident classification is claimed, provided, that attendance at a unit of the university of Montana shall not alone be sufficient to qualify for residence in Montana. "Resident student."

"Domicile" shall mean a person's true, fixed, and permanent home and place of habitation. "Domicile."

"Minor" shall mean a male or female person who has not obtained the age of twenty-one years. "Minor"

HeinOnline -- 1965 423 1965

"Qualified person." "Qualified person" shall mean a person legally qualified to determine his own domicile.

Presumptions —domicile. Section 3. Unless the contrary appears to the satisfaction of the registering authority of the unit at which a student is registering, it shall be presumed that:

Minor. (1) The domicile of a minor is that of his father, or if no father that of his mother, or if there is a guardian of his person that of such guardian; provided that the court appointing such guardian shall certify that the primary purpose of such appointment is not to qualify such minor as a resident of this state; or if one parent has custody of the minor that of such parent.

Married woman. (2) The domicile of a married woman is normally that of her husband.

Armed forces. (3) A person does not gain or lose resident status by reason of his presence in any state or country while a member of the armed forces of the United States; provided, that a member of the armed forces may obtain resident status for himself, his spouse, or his children, after living in Montana for one year, and complying with the provisions of this act.

New domicile —when. (4) The establishment of a new domicile in Montana by a qualified person formerly domiciled in another state has occurred if he is physically present in Montana without a present intention to return to such other state or to acquire a domicile at some other place outside of Montana.

Domicile— when lost. (5) Once established a domicile has not been lost by mere absence unaccompanied by intention to establish a new domicile.

Rules to determine domicile. Section 4. To aid the units in deciding whether a student, or parent, or guardian of the person of a student, is domiciled in Montana the following rules shall be applied:

(1) Nonpayment of Montana income tax by a person whose income is sufficient to be taxed is highly persuasive evidence of non-Montana domicile.

(2) A qualified person cannot establish a new domicile in Montana if he lacks the intention of so doing.

(3) After a student has registered at a unit his classification for tuition and fee purposes remains unchanged

HeinOnline -- 1965 424 1965

in the absence of satisfactory evidence to the contrary. Such evidence shall be reduced to writing and filed with the registering authority of the unit. Changes in classification established by such evidence, and whether from resident to nonresident or the reverse, shall be in writing, signed by the registering authority of the unit, and shall be given effect at the time of the student's next registration.

Minor shall qualify for change in status —when —limitation.

Section 5. A minor shall qualify for a change in status only if his parents or legal guardian or person having legal custody shall have completed the requirements for establishing domicile as defined in this act. A minor or adult student who has registered at any unit of the university of Montana shall not qualify for a change in his classification for tuition purposes unless he shall have completed twelve continuous months of residence while not attending a unit of the university of Montana or while serving in the armed forces.

Effective immediately.

Section 6. This act is effective on its passage and approval.

Approved March 4, 1965.

CHAPTER 165

An Act to Amend Chapter 44 of Title 16, R. C. M. 1947, as Amended, by Adding Sections 16-4414 to 16-4418, Both Inclusive, R. C. M. 1947, Relating to Metropolitan Sanitary and/or Storm Sewer Districts; Changes in the Boundaries thereof; Definition of an Act Defining What Is an Area Polluting a Water Course; the Establishment of Rates, Charges and Rentals for the Services and Benefits of Systems Constructed by Such Districts, to Provide for the Operation and Maintenance of Such Systems and for Deficiencies in Bond and Interest Accounts of District Funds; the Creation of Reserve Funds to Provide for Such Deficiencies; and the Validation of Actions and Proceedings Heretofore Taken in the Establishment of Such District; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Title 16, chapter 44, R. C. M. 1947, as amended, is hereby amended by incorporating therein a new section 16-4414 to read as follows:

HeinOnline -- 1965 425 1965

Boundary changes —limitations.

"16-4414. **Boundary changes.** The county commissioners may by resolution make such changes in the boundaries of a district as they shall deem reasonable and proper, but may not delete any portion of the proposed area which will create an island of included or excluded lands. They may not delete any portion of the proposed area which is contributing or may reasonably be expected to contribute to the pollution of any water course or a body of water in the proposed area. Nothing herein, however, shall permit the assessment of the cost of any such system against the lands remaining in the district, after any such boundary change, at a rate per square foot higher than the rate per square foot which would have been so assessed if the entire cost of the improvements as estimated in the resolution of intention had been assessed against each lot and parcel of land included within the boundaries of the district as described in said resolution of intention, unless a new resolution of intention to recreate the district is adopted and a hearing held thereon upon notice as required for the original resolution of intention."

Amending clause.

Section 2. Title 16, Chapter 44, R. C. M. 1947, is amended by incorporating therein a new section 16-4415 to read as follows:

Area polluting a water course.

"16-4415. **Area polluting a water course.** For the purpose of this chapter it will be conclusively presumed that an area which is within fifteen hundred (1500) feet of a proposed or existing sanitary sewer, is contributing to the pollution of a water course in the proposed area."

Amending clause.

Section 3. Title 16, Chapter 44, R. C. M. 1947, is amended by incorporating therein a new section 16-4416 to read as follows:

Rates, charges and rentals for service.

"16-4416. **Rates, charges and rentals for services.** The board of county commissioners shall have full power and authority by ordinance or resolution to fix and establish just and equitable rates, charges and rentals for the services and benefits directly or indirectly afforded by any sanitary or storm sewer system construction in and for a metropolitan sanitary and/or storm sewer district formed under this chapter. Such rates, charges and rentals shall be as nearly as possible equitable in proportion to the services and benefits rendered, and may take into consideration the quantity of sewage produced and

HeinOnline -- 1965 426 1965

its concentration and water pollution qualities in general and the cost of disposal of sewage and storm waters. The board of county commissioners shall have authority to fix and establish the sewer rates, charges and rentals at amounts sufficient in each year to provide income and revenues adequate for the payment of the reasonable expense of operation and maintenance of the system, and for the transfer to the reserve fund of the amounts necessary to meet the financial requirements of such fund as described in section 16-4417, and for the payment of any cost of the sewer system which are not fully paid from the assessments levied and the bonds issued therefor."

Amending clause.

Section 4. Title 16, Chapter 44, R. C. M. 1947, is amended by incorporating therein a new section 16-4417 to read as follows:

Reserve fund—purpose—loans and advances—lien—foreclosure.

"16-4417. **Reserve fund.** The board of county commissioners may, in order to secure prompt payment of any metropolitan sanitary and/or storm sewer district bonds issued in payment of the cost of improvements in and for the district, and the interest thereon as it becomes due, create, establish and maintain by resolution a fund to be designated as the 'reserve fund' for each issue of such bonds. For the purpose of providing money for the reserve fund the board of county commissioners may in its discretion, from time to time, transfer to the reserve fund from the operation and maintenance fund of the district such amount or amounts as may be deemed necessary or as may be agreed with the holders of the bonds, which amount or amounts so transferred shall be deemed and considered as loans from the operation and maintenance fund to the reserve fund. In connection with the issuance of metropolitan sanitary and/or storm sewer district bonds, the board of county commissioners may undertake and agree to issue orders annually authorizing loans or advances from the reserve fund to the fund maintained for the payment of the bonds, in amounts sufficient to make good any deficiency in the bond and interest accounts thereof to the extent that money is available, and may further undertake and agree to provide money for the reserve fund pursuant to the provisions of section 16-4416, by establishing and collecting rates, charges and rentals for sewer services and benefits in amounts sufficient to provide net revenues, in excess of the current costs of operation and maintenance of the system, suffi-

HeinOnline -- 1965 427 1965

cient to maintain such balance in the reserve fund as the board of county commissioners may so agree to and undertake; which said undertakings and agreements shall be binding upon the county as long as any of said bonds so offered, or any interest thereon, remains unpaid. Whenever any loan is made to any bond fund from the reserve fund, the reserve fund shall have a lien therefor on the land within the district which is delinquent in the payment of its assessments, and on all unpaid assessments and installments of assessments on the district, whether delinquent or not, and on all moneys thereafter coming into the bond fund, to the amount of such loan, together with interest thereon from the time it was made at the rate or percentage borne by the bond for payment of which, or of interest thereon, such loan was made; and whenever there shall be money in the bond fund which is not required for payment of any bond of the district or interest thereon, so much as may be necessary to pay such loan shall, by order of the board of county commissioners, be transferred to the reserve fund. If after all the bonds of the district have been fully paid and all money remaining in the bond fund has been transferred to the reserve fund there still remains a debt from the district to the reserve fund, the board of county commissioners may foreclose the lien upon property within the district owing unpaid assessments to the district for the purpose of paying off said loan to the reserve fund. Nothing herein shall permit the repayment of any loan to the reserve fund at any time unless all interest theretofore accrued on the bonds has been fully paid, and all principal theretofore agreed to be paid in accordance with such redemption schedule as may be provided in the resolution or resolutions authorizing such bonds."

Amending clause.

Section 5. Title 16, Chapter 44, R. C. M. 1947, is amended by incorporating therein a new section 16-4418 to read as follows:

Validation clause.

"16-4418. All proceedings heretofore taken for the creation of any metropolitan sanitary and/or storm sewer district and the establishment of the boundaries thereof and the hearing of protests thereon and the construction or contracting for construction of sanitary and/or storm sewer systems in and for such districts and the authorization and issuance of bonds therefor are hereby validated, ratified, approved and confirmed."

HeinOnline -- 1965 428 1965

Section 6. This act shall be in full force and effect from and after its passage and approval. **Effective immediately.**

Approved March 4, 1965.

CHAPTER 166

An Act Providing for Continuity in the Board of Trustees When It Is Necessary to Temporarily Move the Site of a School House from One Common School District to Another Common School District Within the High School District; Amending Section 75-4601, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-4601, R. C. M. 1947, is amended to read as follows: **Amending clause.**

"75-4601. In any county having a high school the board of trustees of the county high school, if there be one, and the boards of trustees of any school districts maintaining district high schools, are hereby designated as the boards of trustees of the respective high school districts established under this act, provided that additional members may be elected to the board of trustees of districts maintaining district high schools in the number and manner as follows: When a majority of the boards of the common school districts in the high school district so request, such requests shall be directed to the county superintendent of schools, who shall proceed as directed in this act. **Board of trustees.**

The taxable valuation of the district in which the high school is located shall be divided by the number of trustees on the high school board. In the case of a first class district this number shall be seven (7), for a second class district five (5), and for a third class district three (3). This figure obtained shall then be divided into the remaining valuation of the high school district, and the resulting number, to the closest whole number, shall be the number of additional board members to be elected; provided, that the number of these additional board members shall not exceed four (4) in districts of the first and second class or two (2) in districts of the third class. **Additional board members.**

HeinOnline -- 1965 429 1965

Districts.

(a) Following the determination of the number of additional board members to be elected, the county superintendent of schools shall district the territory of the high school district, excluding the common school district wherein the high school is located, into a number of trustee nominating districts equal to the number of additional board members to be elected, and each trustee nominating district so established shall be entitled to one (1) member on the board of trustees of the high school.

Election.

The election of the additional trustees shall be held on the first Saturday in April of every year to fill the expired terms of such additional trustees, and the term of office of such additional trustees after the first election of such trustees shall be for three (3) years.

Additional trustees —qualifications.

The additional trustees so elected shall be residents of the respective trustee nominating districts established by the county superintendent of schools, and shall meet the general qualifications for school district trustees provided by section 75-1601, Revised Codes of Montana, 1947.

Term of office.

At the first election the additional trustees elected from the trustee nominating districts established by the county superintendent of schools, if there be more than one, shall cast lots to determine the length of time each shall hold office. If there is one (1) additional trustee, he shall hold office for three (3) years. If there are two (2) additional trustees, one shall hold office for three (3) years and one for two (2) years. If there are three (3) additional trustees, one shall hold office for three (3) years, one for two (2) years and one for one (1) year. If there are four (4) additional trustees, two shall hold office for three (3) years, one for two (2) years and one for one (1) year.

Election procedure.

The procedure for calling and holding elections, and for the assumption of office, for the school district wherein the high school is located shall govern the election of the additional trustees herein provided for.

At least twenty (20) days preceding the election, any ten (10) electors of any trustee nominating district established as provided for in this act, who are qualified to vote in the election for such additional trustee, shall file with the district clerk of the school district wherein the high school is located the nomination of any qualified

HeinOnline -- 1965 430 1965

person to be a candidate for such trustee from such nominating district. Ballots for the election of such additional trustees shall be prepared in the same form and manner as ballots are prepared for other trustees, providing that such ballots for additional trustees shall show clearly the trustee nominating district from which each nominee is a candidate.

Electors.

Any qualified elector of any nominating district, excluding the district where the high school is located, may vote for the additional trustees so nominated, at the time and place of the annual election of school trustees in the common school district in which he is entitled to vote, provided that each elector may vote for no more than one such additional trustee from each trustee nominating district.

Appointment to vacancy.

A vacancy in the office of additional trustee shall be filled by appointment by the county superintendent of schools; provided, that such appointment shall be subject to confirmation by a majority of the remaining members of the high school district board including the additional members. The trustee so appointed shall hold office until the next annual election, at which election there shall be elected a trustee from the same nominating district for the unexpired term.

Participation of additional members.

(b) The additional members elected to the board of trustees of districts maintaining high schools, shall take office immediately after qualifying and shall participate on an equal basis with other members in all business transacted by the board of trustees pertaining to the high school maintained by said districts. Said additional elected members shall be entitled to vote on the selection of the district superintendent of schools.

Program of public works.

To effectuate the purpose of this act, the board of trustees of any high school district, as herein provided for, is hereby authorized to undertake a program of public works in the construction, improvement or repair of buildings, furnishing and equipping the same and purchasing the necessary land therefor, for the use of any or all high schools in such high school district, and to accept funds from the United States, its instrumentalities or any of its agencies in aid of any one or more of such purposes. Such proceedings may be commenced by resolution upon the part of such board of trustees of such high

HeinOnline -- 1965 431 1965

school district of its own motion and without any petition being filed therefor, such proceedings may also be commenced on petition of thirty per cent (30%) of the qualified electors of the high school district. Upon presentation of this petition to the high school district board of trustees, the latter shall, within sixty (60) days take steps to present the matter asked for in the petition to a vote of the people of the high school district.

Temporary moving of site of schoolhouse.

(c) When the board of trustees of a high school district, who have qualified for their positions as such board of trustees under the provisions herein provided, shall find it necessary to temporarily move the site of the school house to another common school district within the high school district due to the destruction of the school building by fire, flood, storm, riot, insurrection or other act of God, such board of trustees shall continue to hold office for one year after such school house relocation unless the school house is moved back to the common school district where it was originally located."

Effective immediately.

Section 2. This act is effective upon its passage and approval.

Approved March 4, 1965.

CHAPTER 167

An Act to Authorize the Organization and Consolidation of County Water Districts to Include Land in More Than One County, and Amending Section 16-4502, R. C. M. 1947, Relating to Organization of County Water Districts; Section 16-4503, R. C. M. 1947, Relating to Petition for Creation of a County Water District; Section 16-4504, R. C. M. 1947, Relating to Consideration of Said Petitions; Section 16-4505, R. C. M. 1947, Relating to Voting on Said Petitions; Section 16-4506, R. C. M. 1947, Relating to Election of Directors of County Water Districts; Section 16-4507, R. C. M. 1947, Relating to Nomination and Election of Officers; Section 16-4508, R. C. M. 1947, Relating to Canvassing of Returns; Section 16-4520, R. C. M. 1947, Relating to Publication of Notice of Election; Section 16-4527, R. C. M. 1947, Relating to Levy of Water Taxes; Section 16-4531, R. C. M. 1947, Relating to Additions to Dis-

HeinOnline -- 1965 432 1965

trict; Section 16-4532, R. C. M. 1947, Containing Definitions; and Section 16-4533, R. C. M. 1947, Relating to Exclusion of Territory from County Water Districts and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 16-4502, R. C. M. 1947, is amended to read as follows: Amending clause.

"16-4502. **Organization of county water districts.** The people of any county *or counties,* or portion of a county, or city and county, *or any combination of these political divisions,* whether such portion includes unincorporated territory or not, in the state of Montana, having a population of not less than *two hundred (200)* inhabitants, may organize a county water district under the provisions of this act by proceeding as herein provided." Organization of county water districts.

Section 2. Section 16-4503, R. C. M. 1947, is amended to read as follows: Amending clause.

"16-4503. **Petition — boundaries of district — publication.** A petition, which may consist of any number of separate instruments, shall be presented at a regular meeting of the board of commissioners of the county in which the proposed water district is located, signed by the registered voters within the boundaries of the proposed water district, equal in number to at least ten per centum (10%) of the registered voters of the territory included in such proposed water district. *When the territory to be included in such proposed water district lies in more than one county, a petition must be presented to the board of county commissioners of each county in which said territory lies and each of said petitions must be signed by at least ten per centum (10%) of the registered voters of the territory within said county to be included within such proposed water district.* Such petition shall set forth and describe the proposed boundaries of such water district, and shall pray that the same be incorporated under the provisions of this act, and the text of such petition shall be published for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper printed and published in *every* county *in which said territory lies,* together with a notice stating the time of the meeting at which same will be presented. The first publication shall be at least two (2) weeks before Petition—boundaries of district —publication. Territory in more than one county.

HeinOnline -- 1965 433 1965

the time at which the petition is to be presented. When contained upon more than one (1) instrument, one (1) copy only of such petition need be published. No more than five of the names attached to said petition need appear in such publication of said petition and notice, but the number of signers shall be stated."

Amending clause.

Section 3. Section 16-4504, R. C. M. 1947, is amended to read as follows:

Time of consideration—final hearing.

"16-4504. **Time of consideration—final hearing.** With such publication there shall be published a notice of the time of the meeting of the board when such petition will be considered and that all persons interested therein may then appear and be heard. At such time the board of commissioners shall hear the petition and those appearing thereon together with such written protests as shall have been filed with the county clerk and recorder prior to such hearing by or on behalf of owners of taxable property situated within the boundaries of the proposed district *within the county* and may adjourn such hearing from time to time, not exceeding four (4) weeks in all. No defect in the contents of the petition or in the title to or form of the notice or signatures, or lack of signatures, thereto shall vitiate any proceedings thereon, provided such petition or petitions have a sufficient number of qualified signatures attached thereto. On the final hearing said board shall make such changes in the proposed boundaries *which be within the county* as may be deemed advisable and shall define and establish such boundaries, but said board shall not modify said boundaries as to exclude from such proposed district any territory which would be benefited by the formation of such district; nor shall any lands which will not, in the judgment of said board, be benefited by such district be included within such proposed district. Any person whose lands are benefited by such district may upon his application, *to the board of the county in which his lands be* in the discretion of said board, have such lands included within said proposed district."

Amending clause.

Section 4. Section 16-4505, R. C. M. 1947, is amended to read as follows:

Proposition—voters—certificate of secretary of state—district incorporated—testimony—action within 1 year—election.

"16-4505. **Proposition submitted—who may vote—certificate of secretary of state—district deemed incorporated—must hear testimony—suit commenced within one year—election.** Upon such hearing of said petition, the

HeinOnline -- 1965 434 1965

board of commissioners shall determine whether or not said petition complies with the requirements of the provisions of this act, and for that purpose must hear all competent and relevant testimony offered in support of or in opposition thereto. Such determination shall be entered upon the minutes of said board of commissioners. A finding of the board of commissioners in favor of the genuineness and sufficiency of the petition and notice shall be final and conclusive against all persons except the state of Montana upon suit commenced by the attorney general. Any such suit must be commenced within one (1) year after the order of the board of commissioners declaring such district organized as herein provided, and not otherwise. Upon the final determination of the boundaries of the district the board of commissioners *of each county in which said district lies* shall give notice of an election to be held in said proposed water district for the purpose of determining whether or not the same shall be incorporated, the date of which election shall be not more than sixty (60) days from the date of the final hearing of such petition. Such notice shall describe the boundaries so established and shall state the proposed name of the proposed incorporation (which name shall contain the words '..... county water district'), and this notice shall be published for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper printed and published in *every* county *in which said district lies.* The first publication shall be made at least two (2) weeks before the time at which the election is to be held. At such election the proposition to be submitted shall be: 'Shall the proposition to organize.....county water district under (naming the chapter containing this act) of the acts of the.....session of the Montana legislature and amendments thereto be adopted?' And the election thereupon shall be conducted, the vote canvassed and the result declared in the same manner as provided by law in respect to general elections, so far as they may be applicable, except as in this act otherwise provided. No person shall be entitled to vote at any election under the provisions of this act unless such person possesses all the qualifications required of electors under the general election laws of the state, and is the owner of taxable real property *located within the county in which he proposes to vote and* situated within the boundaries of the proposed

HeinOnline -- 1965 435 1965

district. Within four (4) days after such election the vote shall be canvassed by the board of commissioners. If a majority of the votes cast at such election in each municipal corporation or part thereof and in the unincorporated territory *of each county* included in such proposed water district shall be in favor of organizing such county water district, said board *of each such county* shall by an order entered on its minutes declare the territory enclosed within the proposed boundaries duly organized as a county water district under the name theretofore designated, and the county clerk *of each such county* shall immediately cause to be filed with the secretary of state and shall cause to be recorded in the office of the county recorder of the county *or counties* in which such district is situated, each, a certificate stating that such a proposition was adopted. Upon the receipt of such last-mentioned certificate the secretary of state shall, within ten (10) days, issue his certificate reciting that the county water district (naming it) has been duly incorporated according to the laws of the state of Montana. A copy of such certificate shall be transmitted to and filed with the county clerk of the county *or counties* in which such county water district is situated. From and after the date of such certificate, the district named therein shall be deemed incorporated as a county water district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto. In case less than a majority of the votes cast are in favor of said proposition the organization fails but without prejudice to renewing proceedings at any time in the future."

Amending clause.

Section 5. Section 16-4506, R. C. M. 1947, is amended to read as follows:

Election of directors—term of office.

"16-4506. **Election of directors—term of office.** At an election to be held within such district under the provisions of this act and the laws governing general elections not inconsistent herewith, the county water district thus organized shall proceed within ninety (90) days after its formation to the election of a board of directors consisting, if there are no municipalities within the boundaries of said district, of five (5) members. In all cases where the boundaries of such water district include any municipality or municipalities, said board of directors, in addition to said five (5) directors to be elected as aforesaid, shall consist of one (1) additional director for

HeinOnline -- 1965 436 1965

each one of said municipalities within such county water district, each such additional director to be appointed by the mayor of the municipality for which said additional director is allowed; and if there be any unincorporated territory within said water district, one additional director, to be appointed by the board of commissioners *of each county containing such territory.* Any director so elected or appointed shall be a qualified freeholder and a resident of said district. All directors, elected or appointed, shall hold office until the election and qualification or appointment and qualification of their successors. The term of office of directors elected under the provisions of this act shall be four (4) years from and after the date of their election; provided, that the directors first elected after the passage of this act shall hold office only until the election and qualification of their successors as hereinafter provided. The term of office of directors appointed by said mayor or mayors or by said board of commissioners shall be six (6) years from and after the date of appointment. Directors to be first appointed under the provisions of this act shall be appointed within ninety (90) days after the formation of the district. The election of directors of such county water district shall be in every fourth year after its organization, on the fourth Tuesday in March, and shall be known as the 'general water district election.' All other elections which may be held by authority of this act, or of the general laws, shall be known as special water district election."

Section 6. Section 16-4507, R. C. M. 1947, is amended to read as follows: Amending clause.

"16-4507. **Nomination of officers.** (1) The mode of nomination and election of all elective officers of such water district to be voted for at any water district election and the mode of appointment of a director or directors by said mayor or mayors or by said board of commissioners shall be as follows and not otherwise. Nomination of officers.

(2) The name of a candidate shall be printed upon the ballot when a petition of nomination shall have been filed in his behalf in the manner and form and under the conditions hereinafter set forth.

(3) The petition of nomination shall consist of not less

HeinOnline -- 1965 437 1965

Certificates—form. than twenty-five (25) individual certificates, which shall read substantially as follows:

PETITION OF NOMINATION
Individual Certificate

State of .....)
)ss.
County of .....)

Prect. No.....

I, the undersigned, certify that I do hereby join in a petition for the nomination of....., whose residence is at.....for the office of.....of the.....county water district to be voted for at the water district election to be held in the..... county water district on the.....day of....., 19.....; and I further certify that I am a qualified elector and freeholder residing within said district, and am not at this time a signer of any other petition nominating any other candidate for the above named office; or, in case there are several places to be filled in the above named office, that I have not signed more petitions than there are places to be filled in the above named office; that my residence is at No..... street, ..., and that my occupation is.....

(Signed).....

State of Montana)
)ss.
County of .....)

....., being duly sworn, deposes and says that he is the person who signed the foregoing certificate and that the statements therein are true and correct.

(Signed).....

Subscribed and sworn to before me this.....day of....., 19.....

.....
Notary Public.

The petition of nomination of which this certificate forms a part shall, if found insufficient, be returned to ....., at....., Montana.

Clerk to furnish forms. (4) **Clerk to furnish forms.** It shall be the duty of the county clerk to furnish upon application a reasonable number of forms of individual certificates of the above character. *If the district lies in more than one county, the*

HeinOnline -- 1965 438 1965

county clerk whose county contains the largest percentage of the territory of said district shall fulfill this function.

Certificates—to contain—signers.

(5) **Certificates.** Each certificate must be a separate paper. All certificates must be of uniform size as determined by the county clerk.. Each certificate must contain the name of one signer thereto and no more. Each certificate shall contain the name of one candidate and no more. Each signer must be a qualified elector residing within said district, must not at the time of signing a certificate have his name signed to any other certificate for any other candidate for the same office, or, in case there are several places to be filled in the same office, signed to more certificates for candidates for that office than there are places to be filled in such office. In case an elector has signed two or more conflicting certificates, all such certificates shall be rejected. Each signer must verify his certificate and make oath that the same is true, before a notary public. Each certificate shall further contain the name and address of the person to whom the petition is to be returned in case said petition is found insufficient.

Presentation of petition—certificates—time.

(6) **Presentation of petition.** A petition of nomination, consisting of not less than twenty-five (25) individual certificates for any one candidate, may be presented to the county clerk not earlier than forty-five (45) days nor later than thirty (30) days before the election. The county clerk shall indorse thereon the date upon which the petition was presented to him. *If the district lies in more than one county, such petition for nomination shall be presented to the county clerk whose county contains the largest percentage of the territory of said district and said county clerk shall fulfill all duties assigned to county clerks in elections under this act.*

Examination of petition.

(7) **Examination of petition.** When a petition of nomination is presented for filing to the county clerk, he shall forthwith examine the same, and ascertain whether or not it conforms to the provisions of this section. If found not to conform thereto, he shall then and there in writing designate on said petition the defect or omission or reason why such petition can not be filed, and shall return the petition to the person named as the person to whom the same may be returned in accordance with this section. The petition may then be amended and against presented

HeinOnline -- 1965 439 1965

to the clerk as in the first instance. The clerk shall forthwith proceed to examine the petition as hereinbefore provided. If necessary, the board of commissioners shall provide extra help to enable the clerk to perform satisfactorily and promptly the duties imposed by this section.

Signer may withdraw name.

(8) **Signer may withdraw name.** Any signer to a petition of nomination and certificate may withdraw his name from the same by filing with the county clerk a verified revocation of his signature before the filing of his petition by the clerk, and not otherwise. He shall then be at liberty to sign a petition for another candidate for the same office.

Candidate may withdraw—time.

(9) **Candidate may withdraw.** Any person whose name has been presented under this section as a candidate may, not later than twenty-five (25) days before the day of election, cause his name to be withdrawn from nomination by filing with the county clerk a request therefor in writing, and no name so withdrawn shall be printed upon the ballot. If, upon such withdrawal, the number of candidates remaining does not exceed the number to be elected, then other nominations may be made by filing petitions therefor not later than twenty-five (25) days prior to such election.

Petition filed —time.

(10) **Petition filed.** If either the original or amended petition of nomination be found sufficiently signed as hereinbefore provided, the clerk shall file the same twenty-five (25) days before the date of the election. When a petition of nomination shall have been filed by the clerk it shall not be withdrawn or added to and no signatures shall be revoked thereafter.

Petitions preserved.

(11) **Petitions preserved.** The county clerk shall preserve in his office for a period of two years, all petitions of nomination and all certificates belonging thereto, filed under this section.

List of candidates —time —publication.

(12) **List of candidates.** Immediately after such petitions are filed, the county clerk shall enter the names of the candidates in a list, with the offices to be filled, and shall not later than twenty (20) days before the election certify such list as being the list of candidates nominated as required by the provisions of this act, and the board of commissioners *of each county in which the district lies* shall cause said certified list of names and

HeinOnline -- 1965 440 1965

the offices to be filled, to be published in the proclamation calling the election at least ten (10) successive days before the election in at least one (1) but not more than three (3) newspapers of general circulation published in *each* county in which such municipal water district is located. Such proclamation shall conform in all respects to the general state law governing the conduct of general elections now or hereafter in force, applicable thereto, except as otherwise herein provided.

Ballots—form.

(13) **Ballots. Form.** The county clerk shall cause the ballots to be printed and bound and numbered as provided by said general state law, except as otherwise required in this act. The ballots shall contain the list of names and the respective offices as published in the proclamation and shall be in substantially the following form:

GENERAL (OR SPECIAL) DISTRICT ELECTION

..... County Water District

(Inserting date thereof.)

Instructions to Voters: To vote, stamp or write a cross (X) opposite the name of the candidate for whom you desire to vote. All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void. If you wrongly mark, tear or deface this ballot, return it to the inspector of election, and obtain another.

Ballots—printing.

(14) **How printed.** All ballots printed shall be precisely on the same size, quality, tint of paper, kind of type, and color of ink, so that without the number it would be impossible to distinguish one ballot from another; and the names of all candidates printed upon the ballot shall be in type of the same size and style. A column may be provided on the right-hand side for questions to be voted upon at municipal water district election, as provided for under this act. The names of the candidates for each office shall be arranged in alphabetical order, and nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate.

No candidate omitted.

(15) **No candidate omitted.** The name of no candidate who has been duly and regularly nominated, and who has not withdrawn his name as herein provided shall be omitted from the ballot.

HeinOnline -- 1965 441 1965

Office.

(16) **Office.** The offices to be filled shall be arranged in the following order: 'For director vote for (giving number).'

Voting squares.

(17) **Voting squares.** Half-inch square shall be provided at the right of the name of each candidate wherein to mark the cross.

Spaces below printed names.

(18) **Spaces below printed names.** Half-inch spaces shall be left below the printed names of candidates for each office, equal in number to the number to be voted for, wherein the voter may write the name of any person or persons for whom he may wish to vote.

Votes necessary to elect.

(19) **Votes necessary to elect.** In case there is but one person to be elected to an office, the candidate receiving a majority of the votes cast for all the candidates for that office, shall be declared elected: in case there are two or more persons to be elected to an office, as that of director, then those candidates equal in number to the number to be elected, who receive the highest number of votes for such office shall be declared elected.

Failure to qualify.

(20) **Failure to qualify.** If a person elected fails to qualify, the office shall be filled as if there were a vacancy in such office, as hereinafter provided.

Mode of appointment by mayor.

(21) **Mode of appointment by mayor.** The mode of appointment of director or directors by a mayor, or by a board of commissioners, shall be by certificate of appointment signed by said mayor or mayors, or issued by said board of commissioners, and transmitted to the board of directors of said county water district.

Informality not to invalidate.

(22) **Informality not to invalidate.** No informality in conducting county water district elections shall invalidate the same, if they have been conducted by directors to fill a vacancy, or appointed by a mayor or by this act."

Amending clause.

Section 7. Section 16-4508, R. C. M. 1947, is amended to read as follows:

General law to govern.

"16-4508. **General law to govern.** The provisions of the law relating to the qualifications of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of general elections, so far as they may be applicable, shall govern all water district elections, except as in this act otherwise provided; provided, how-

HeinOnline -- 1965 442 1965

ever, that where a corporation owns taxable real property within the boundaries of the district, the president, vice-president or secretary of such corporation shall be entitled to cast a vote on behalf of the corporation; provided also that an elector owning taxable real property within the district need not reside within the district in order to vote, and provided that the board of commissioners shall canvass the returns of the first election and that thereafter, except as herein provided, the board of directors shall meet as a canvassing board and duly canvass the returns within four (4) days after any water district election, including any water district bond election. *If the district lies in more than one county, the board of commissioners whose county contains the largest percentage of the territory of said district shall canvass the returns of the first election.*"

Amending clause.

Section 8. Section 16-4520, R. C. M. 1947, is amended to read as follows:

Publication.

"16-4520. **Publication.** Such notice shall be published for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper published in *each* county wherein such water district is located, which newspaper *or newspapers* shall be designated by the board of directors. Every qualified elector, owning taxable real property, within such voting precincts, but no others, shall be entitled to vote at such election. All the expenses of holding such election shall be borne by the district."

Amending clause.

Section 9. Section 16-4527, R. C. M. 1947, is amended to read as follows:

Commissioners to levy water taxes.

"16-4527. **Commissioners to levy water taxes.** If from any cause, the revenues of the district shall be inadequate to pay the interest or principal of any bonded debt as it becomes due or any other expenses or claims against the district, then the board of directors must, at least fifteen (15) days before the first day of the month in which the board of commissioners of the county, or city and county, *or counties* in which such water district is located, *are* required by law to levy the amount of taxes required for county or city and county purposes, furnish to the board *or boards* of commissioners, and to the auditor *or auditors,* respectively, an estimate in writing of the amount of money required by the district for the payment of the

HeinOnline -- 1965 443 1965

principal of or interest on any bonded debt as it becomes due, and of the amount of money required to establish reasonable reserve funds for either of said purposes, together with a description of the lands benefited thereby, as stated by the board of directors in the resolution declaring the necessity to incur such bonded indebtedness, and also of the amount of money required by the district for any other purpose in this section set forth, and the board of commissioners of such county or city and county must annually, at the time and in the manner of levying other county or city and county taxes and until any such bonded debt is fully paid, levy upon the lands so benefited and cause to be collected, *the proportionate share to be borne by the land located in their county of* a tax sufficient for the payment thereof to be known as the '.....county water district bond tax'; and until all other expenses or claims are fully paid, levy upon all of the lands of the district and cause to be collected *the proportionate share to be borne by the land located in their county of* a tax sufficient for the payment thereof to be known as the '..... county water district water tax.'

Assessment of money required.

When the amount of money required for any purpose in this section enumerated has been determined, each lot or parcel of land to be assessed shall be assessed with that part of the amount of money required which its area bears to the total area of all of the lands to be assessed; or said assessment may, at the option of the board *or boards* of county commissioners, be based upon the taxable valuation, as stated in the last completed county assessment roll, of the lots or parcels of land, exclusive of improvements thereon, within said district, in which case, each lot or parcel of land to be assessed shall be assessed with that part of the amount of money required which its taxable valuation bears to the total taxable valuation of all of the lands to be assessed. *PROVIDED HOWEVER that where the district lies in more than one county, the same method of assessment shall be used by each board of county commissioners.*

Notice of intent to levy.

When the written estimate of the amount of money required has been delivered to the board of commissioners, said board shall give notice of its intention to levy and collect a tax sufficient for the payment thereof. Such notice shall be given:

HeinOnline -- 1965 444 1965

Posting.

(1) By posting notice thereof in five (5) public places within the *county and within the* boundaries of the lands upon which the tax is to be levied, and

Publication.

(2) By publishing a copy of the notice for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper published in *each* county wherein the district is located.

Mail.

(3) By forwarding regular first class mail or registered mail, at least ten (10) days prior to the hearing provided for in paragraph (d) of this section, a copy of the notice addressed to the owners of taxable real property within the district as shown by the current assessment book on file in the office of the assessor of the county or counties the boundaries of which include taxable real property of the district.

Notice—due process of law.

The legislative assembly hereby finds, determines and declares that the giving of notice in accordance with paragraphs (1), (2) and (3) of this section is reasonably calculated to inform the owners of taxable real property located within the boundaries of the district of the hearing provided for in paragraph (d) of this section, and that the giving of any further notice is impracticable and is unnecessary to the assurance of due process of law to such property owners.

Notice to state.

Such notice shall state:

(a) The amount of money required;

(b) The method of assessment which the board *or boards* of commissioners intends to employ;

(c) The boundaries or description of the lands to be assessed, which said boundaries or description may be recited in full, or may be given by reference to any instrument on file or of record in the office of the clerk and recorder, treasurer or assessor of the county or counties in which the district or part thereof is situate; and

Time and place for hearing.

(d) The time when and the place where, the board *or boards* of commissioners will hear and pass upon all protests that may be made against the levy of the tax or any matter pertaining thereto, which said hearing shall be had no less than fifteen (15) days after the last publication of the notice.

HeinOnline -- 1965 445 1965

Protests.

At the time and place designated for said hearing any owner of property situated within the area to be assessed may appear and protest the levy of the tax or any matter pertaining thereto. All protests must be heard, considered and ruled upon by the board of commissioners. The board of commissioners may adjourn said hearing from time to time.

Recovery of unlawful tax.

Where such tax is, for any reason, deemed unlawful by the person whose property is taxed, whether he has protested the same at the hearing above provided or not, he may pay the tax or the installments thereof under protest in the manner provided by section 84-4502, Revised Codes of Montana, 1947, and thereupon, and within the time prescribed and in the manner provided by said section 84-4502, may commence an action to recover such tax, or installments, and in such action contest and litigate the payment of such tax on the same grounds and for the same reasons that he has stated in his written protest, and for no other reasons and on no other grounds; provided, that all of the provisions of said section 84-4502 for the retention or refunding of taxes paid under protest shall apply to taxes paid under protest under this section."

Amending clause.

Section 10. Section 16-4531, R. C. M. 1947, is amended to read as follows:

Adding to and consolidation of district.

"16-4531. **Adding to** *and consolidation of* **district.** Any portion of *any* county or any municipality, or both, may be added to any county water district organized under the provisions of this act, at any time, upon petition presented in the manner therein provided for the organization of such water district, which petition may be granted by ordinance of the board of directors of such water district. Such ordinance shall be submitted for adoption or rejection to the vote of the electors in such water district and in the proposed addition, at a general or special election held as herein provided, within seventy (70) days after the adoption of such ordinance. If such ordinance is approved, the president and secretary of the board of directors shall certify that fact to the secretary of state and to the county recorder of the county in which such water district is located. Upon the receipt of such last mentioned certificate the secretary of state shall, within ten (10) days, issue his certificate, reciting the passage of said ordinance and the addition of said terri-

HeinOnline -- 1965 446 1965

tory to said district. A copy of such certificate shall be transmitted to and filed with the county clerk of the county in which such county water district is situated. From and after the date of such certificate the territory named therein shall be deemed added to and form a part of said county water district, with all the rights, privileges and powers set forth in this act and necessarily incident thereto.

Consolidation of districts.

Two or more water districts organized under the provisions of this act may consolidate, at any time, upon petitions submitted to the board of directors of each such water district. Such petitions shall be in the form required for petitions for the organization of water districts. Each such petition shall be signed by not less than ten per cent (10%) of the registered voters of the territory included within said water district. Said petitions may be granted by ordinance of the board of directors of each of said water districts. Such ordinances shall be submitted for adoption or rejection to the vote of the electors in such water districts at general or special elections held as herein provided within seventy (70) days after the adoption of such ordinances. If such ordinances are approved, the president and secretary of the boards of directors of each of said water districts shall certify that fact to the secretary of state and to the county clerk of the county or counties in which such water districts are located. Upon the receipt of said certificate the secretary of state shall, within ten (10) days, issue his certificate, reciting the passage of said ordinances and the consolidation of said districts. A copy of such certificate shall be transmitted to and filed with the county clerk of each county in which such consolidated water district is situated. From and after the date of such certificate, the said districts shall be deemed to be consolidated and shall consist of one water district with all the rights, privileges and powers set forth in this act and necessarily incident thereto. The number and manner of selection and election of directors of the consolidated water district shall be the same as the number and manner of selection and election of directors of newly organized water districts."

Amending clause.

Section 11. Section 16-4532, R. C. M. 1947, is amended to read as follows:

Definitions.

"16-4532. **Definitions.** Nothing in this act shall be so construed as repealing or in any wise modifying the

HeinOnline -- 1965 447 1965

provisions of any other act relating to water or the supply of water to, or the acquisition thereof by counties or municipalities within this state. The term 'municipality,' as used in this act, shall include a consolidated city and county, city or town, and shall be understood and so construed as to include, and is hereby declared to include, all corporations heretofore organized and now existing and those hereafter organized for municipal purposes within such water districts. The term 'county' shall *mean one or more counties and shall* be understood and construed to include 'city and county.' In municipalities in which there is no mayor the duty imposed upon said officer by the provisions of this act shall be performed by the president of the board of trustees or other chief executive of the municipality. The word 'district' shall apply, unless otherwise expressed or used, to a water district formed under the provisions of this act, and the word 'board' and the words 'boards of directors' shall apply to the board of directors of such district."

"Municipality."

"County."

"District."

"Board" and "boards of directors."

Amending clause.

Section 12. Section 16-4533, R. C. M. 1947, is amended to read as follows:

Exclusion of territory—petition—contents—duties of secretary—hearing—order excluding lands.

"16-4533. **Exclusion of territory—petition—contents—duties of secretary—hearing—order excluding lands.** Any territory, included within any county water district formed under the provisions of this act, and not benefited in any manner by such district, or its continued inclusion therein, may be excluded therefrom by order of the board of directors of such district upon the verified petition of the owner or owners in fee of lands whose assessed value, with improvements, is in excess of one-half of the assessed value of all the lands, with improvements, held in private ownership in such territory. Said petition shall describe the territory sought to be excluded and shall set forth that such territory is not benefited in any manner by said county water district or its continued inclusion therein, and shall pray that such territory may be excluded and taken from said district. Such petition shall be filed with the secretary of the water district and shall be accompanied by a deposit with such secretary of the sum of one hundred dollars ($100.00), to meet the expenses of advertising and other costs incident to the proceedings for the exclusion of such territory, including the cost of recording a certified copy of the order hereinafter provided for, any unconsumed balance to be re-

HeinOnline -- 1965 448 1965

turned to the petitioner. Upon the filing of such petition with the secretary of the water district he shall call a meeting of the board of directors of the district at a time not less than twenty-five (25) days nor more than fifty (50) days after the filing of the petition and cause a notice of the filing of such petition to be published for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly newspaper within said district, if there be one, and if not, in some newspaper of general circulation published in *each* county in which the district is situated. Such notice shall also state the date of the filing of such petition and that the same will come on for hearing before the board of directors of the district and shall state the time of the hearing and the place thereof, which shall be the regular meeting place of the board of directors of the district; provided, that the board may adjourn the hearing to a more convenient meeting place within the district. Any landowner or taxpayer within the district shall have the right to appear at said hearing, either in behalf of or in opposition to the granting of said petition. Said petition shall come on for hearing before the board of directors of the district at the time and place specified in the notice of hearing. If upon such hearing the board of directors determines that it is for the best interests of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district, or if it appears that such lands, or some portion thereof, will not be benefited by their continued inclusion in the district, then the board of directors shall make an order that such lands, or such portion thereof, be excluded from the district, such order to describe specifically the lands so excluded. From the time of the making of such order the lands so excluded shall be deemed to be no longer included in the district, but such order of exclusion shall not be taken to invalidate in any manner any taxes or assessments theretofore levied or assessed against the lands so excluded. A copy of such order of exclusion, certified to by the secretary of the district, shall be recorded in the office of the county recorder of the county *or counties* in which the district is situated and the record of such certified copy shall be deemed prima facie evidence of the exclusion from the district of the lands purporting to be excluded thereby."

HeinOnline -- 1965 449 1965

Effective immediately.

Section 13. This act shall be in effect from and after its passage and approval.

Approved March 4, 1965.

CHAPTER 168

An Act to Amend Sections 84-301 and 84-302, R. C. M. 1947, Relating to the Classification of Property for Taxation in Order to Provide for a New Classification Relative to Improvements on Real Property Owned and Occupied by a Recipient of Retirement Benefits, or a Widow Not Gainfully Employed to Such an Extent as Would Render Him Ineligible for Social Security Benefits; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-301 R. C. M. 1947, is amended to read as follows:

Classification of property for taxation.

"84-301. **Classification of property for taxation.** For the purpose of taxation the taxable property in the state shall be classified as follows:

Class 1.

Class One. The annual net proceeds of all mines and mining claims, after deducting only the expenses specified and allowed by section 84-5403; also where the right to enter upon land, to explore or prospect, or dig for oil, gas, coal or mineral is reserved in land by any person or corporation, the surface title to which has passed to another, the assessor and the state and county boards of equalization shall determine the value of the right to enter upon said tract of land for the purpose of digging, exploring, or prospecting for gas, oil, coal or minerals, and the same shall be placed in this classification for the purpose of taxation.

Class 2.

Class Two. All household goods and furniture, including clocks, musical instruments, sewing machines, wearing apparel of members of the family, and all personal property actually used by the owner for personal and domestic purposes, or for the furnishing or equipment of the family residence; all agricultural and other tools, implements and machinery, gas and other engines and

HeinOnline -- 1965 450 1965

boilers, threshing machines and outfits used therewith, automobiles, motor trucks and other power-driven cars, vehicles of all kinds, boats and all water craft, harness, saddlery and robes.

Class 3. Class Three. Livestock, poultry and the unprocessed products of both; stocks of merchandise of all sorts, together with furniture and fixtures used therewith; and all office or hotel furniture and fixtures.

Class 4. Class Four. All land, town and city lots, with improvements, and all trailers affixed to land owned, leased, or under contract of purchase by the trailer owner, manufacturing and mining machinery, fixtures and supplies, except as otherwise provided by the constitution of Montana, and except as such property may be included in Class Five or Class Seven.

Class 5. Class Five. (a) All moneys and credits, secured or unsecured, including all state, county, school district and other municipal bonds, warrants and securities, without any deduction or offset; provided, however, that the terms 'moneys and credits' as herein used shall not embrace the moneyed capital employed in the banking business by any banking corporation or individual in this state.

(b) All poles, lines, transformers, transformer stations, meters, tools, improvements, machinery and other property used and owned by co-operative rural electrical and co-operative rural telephone associations organized under the laws of Montana.

(c) All unprocessed agricultural products either on the farm or in storage, irrespective of whether said products are owned by the elevator, warehouse or flour mill owner or company storing the same, or any other person whomsoever, and excepting livestock and poultry and the unprocessed products of both.

Class 6. Class Six. Property formerly included in this class is now classified by section 84-308 of the Revised Codes of Montana, 1947.

Class 7. Class Seven. All new industrial property, New industrial property shall mean any new industrial plant, including land, buildings, machinery and fixtures which, in the determination of the state board of equalization, is

HeinOnline -- 1965 451 1965

used by a new industry during the first three (3) years of operation not having been assessed prior to July 1, 1961 within the state of Montana. New industry shall mean any person, corporation, firm, partnership, association, or other group which establishes a new plant or plants in this state for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries. Provided, however, that new industrial property shall be limited to industries that manufacture, mill, mine, produce, process or fabricate materials, or do similar work in which capital and labor are employed and in which materials unserviceable in their natural state are extracted, processed or made fit for use or are substantially altered or treated so as to create commercial products or materials; and in no event shall the term new industrial property be included to mean property used by retail or wholesale merchants, commercial services of any type, agriculture, trades or professions. And provided further, that new industrial property shall not be included to mean property which is used or employed in any industrial plant which has been in operation in this state for three (3) years or longer. Any person, corporation, firm, partnership, association or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner and form as may be required by said board.

Class 8.

Class Eight. *Any improvement on real property valued at not more than fifteen thousand dollars ($15,000), which is owned and actually occupied by a widow, with or without minor or dependent children, or by: (1) a widow 62 years of age or older, whether with or without minor or dependent children, or*

(2) a widower 65 years of age or older, whether with or without minor or dependent children, or

(3) a widow with minor or dependent children regardless of age, or

(4) a recipient of retirement benefits not exceeding one hundred fifty dollars ($150) per month, if single, or two hundred fifty dollars ($250) per month if married. Provided such owner and occupier is not gainfully employed to such an extent as would render him or her ineligible for social security benefits, should he or she be

HeinOnline -- 1965 452 1965

otherwise eligible for such benefits, and does not have income from all sources, excluding retirement benefits as mentioned in (4) hereinabove, in excess of one thousand five hundred dollars ($1,500) per year. Provided, further, that one who applies for classification of property under this class must make an affidavit before the county assessor of the county in which said property is located, on a form as may be provided by the state board of equalization supplied without cost to the applicant, as to his income, if applicable, as to his retirement benefits, if applicable, or, as to his marital status, if applicable, and to the fact that he or she actually occupies such improvements with none other than his or her spouse, minor or dependent children, or persons not responsible for all or any part of the financial support of the affiant, and that the improvements are not used for income producing purposes other than such purposes as are normally permitted in or on such improvements, with right of the county welfare board to investigate the applicant, on the completion of the form, as to answers given on the form. Provided, further, that the value of said property shall not increase during the life of the recipient of retirement benefits or widow or widower covered under this class.

Class 9.

Class nine. All property not included in the eight preceding classes.

Amending clause.

Section 2. Section 84-302, R. C. M. 1947, is amended to read as follows:

Basis for imposition of taxes.

"84-302. **Basis for imposition of taxes.** As a basis for the imposition of taxes upon the different classes of property specified in the preceding section, a percentage of the true and full value of the property of each class shall be taken as follows:

Class 1. One hundred per cent *(100%)* of its true and full value.

Class 2. Twenty per cent *(20%)* of its true and full value.

Class 3. Thirty-three and one-third per cent *(33-1/3%)* of its true and full value.

Class 4. Thirty per cent *(30%)* of its true and full value.

Class 5. Seven per cent *(7%)* of its true and full value.

HeinOnline -- 1965 453 1965

Class 6. Forty per cent *(40%)* of its true and full value.

Class 7. Seven per cent *(7%)* of its true and full value.

Class 8. *Twenty* per cent *(20%)* of its true and full value.

Class 9. Forty per cent (40%) of its true and full value.

Repealing clause.

Section 3. Repealing all acts and parts of acts in conflict herewith.

Effective immediately.

Section 4. This act is effective on its passage and approval.

Approved March 4, 1965.

CHAPTER 169

An Act to Prevent Water Pollution by Prohibiting the Discharge of Sewage from Vessels; and Amending Section 69-3505, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-3505, R. C. M. 1947, is amended to read as follows:

Vessels shall have aboard safety equipment.

"69-3505. *(1)* Every vessel shall have aboard:

(a) One life preserver, buoyant vest, ring buoy or buoyant cushion of the type approved by the commandant of the United States coast guard in good and serviceable condition for each person on board, provided, in boats under twenty-six (26) feet in length, that any person or persons, twelve (12) years of age or younger, occupying a vessel while such vessel is in motion, shall have a life preserver of a type approved by the commandant of the United States coast guard securely fastened to his or her person.

Light.

(b) When in operation during hours of darkness, a light sufficient to make the motorboat's or vessel's presence and location known to any and all other vessels within a reasonable distance.

Ventilation system.

(c) If carrying or using any inflammable or toxic fluid in any enclosure for any purpose, and if not an en-

HeinOnline -- 1965 454 1965

tirely open motorboat or vessel, an efficient natural or mechanical ventilation system which shall be capable of removing resulting gases prior to, and during the time such motorboat or vessel is occupied by any person.

Fire extinguishers —exception.

(d) All motorboats shall carry the minimum number of coast guard approved hand portable fire extinguishers, the number of which is to be determined by the Montana fish and game commission or a coast guard approved fixed fire extinguishing system, except, that motorboats less than twenty-six (26) feet in length of open construction, propelled by outboard motors, and not carrying passengers for hire need not carry such portable fire extinguishers or fire extinguishing systems.

Flame arrester —exception.

(e) Every motorboat or vessel shall have the carburetor or carburetors of every engine therein (except outboard motors) using gasoline as fuel, equipped with an efficient flame arrester, backfire trap, or other similar device.

Rules and regulations.

(f) The board is hereby authorized to make rules and regulations modifying the equipment requirements contained in this section to the extent necessary to keep these requirements in conformity with the provisions of the federal navigation laws or with the navigation rules promulgated by the United States coast guard.

Equipment for operation.

(g) No person shall operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof.

Sewage treatment device or retaining tank.

(2) No vessel shall be equipped in a manner which will permit discharge of inadequately treated sewage into waters of this state. No container of inadequately treated sewage shall be placed, left or discharged in or near waters of this state by anyone at any time. All toilets located on any vessel operated on waters of this state shall have securely affixed to the interior discharge opening of them an operating treatment device or retaining tank meeting the standards established by the state board of health."

Dicharge of waste materials.

Section 2. No person shall discharge or cause, permit or suffer to be discharged, any garbage, refuse, waste or sewage from any boat into or upon the waters of any stream, river or lake within the boundaries of the state of Montana.

HeinOnline -- 1965 455 1965

Violation—penalty.

Section 3. A person who is convicted of a violation of this act shall be punished by a fine of not more than twenty-five dollars ($25).

Approved March 4, 1965.

CHAPTER 170

An Act to Establish School Safety Patrols; Empowering the Governing Board or Other Directing Authority of any School and Other Educational Institutions, Both Public and Private, to Authorize the Organization and Supervision of School Safety Patrols for the Purpose of Influencing and Encouraging Other Pupils to Refrain from Crossing Public Highways at Points Other Than Regular Crossings, and for the Purpose of Directing Pupils When and Where to Cross Highways; Providing for the Qualification and Appointment of Members of School Safety Patrols; Providing That no Liability Shall Attach to the Establishment of School Safety Patrols; Providing for Identification and Operation of School Safety Patrols; Providing for the Training of School Safety Patrol Members; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

School safety patrols—establishment.

Section 1. **School safety patrols — establishment.** In the exercise of authorized control and supervision over pupils attending schools and other educational institutions, both public and private, the governing board or other directing authority of any such school or institution is empowered to authorize the organization and supervision of school safety patrols for the purpose of influencing and encouraging other pupils to refrain from crossing public highways at points other than regular crossings and for the purpose of directing pupils when and where to cross highways.

Appointment of members.

Section 2. **Appointment of members.** If the parents or guardians of a pupil consent in writing to the school authorities to the appointment of the pupil on a school safety patrol, it is lawful for any pupil over nine years of age to be appointed and designated as a member there-

HeinOnline -- 1965 456 1965

of; provided that in any school in which there are no pupils who have attained such age, any pupil in the highest grade therein may be so appointed and designated.

Liability not to attach.

Section 3. **Liability not to attach.** No liability shall attach either to the school, educational institution, governing board, directing authority, or parent or guardian, or any individual director, board member, superintendent, principal, teacher or other school authority by virtue of the organization, maintenance or operation of such school safety patrol because of injuries sustained by any pupil, whether a member of the patrol or otherwise by reason of the operation and maintenance thereof.

Identity and operation.

Section 4. **Identity and operation.** Identification and operation of school safety patrols shall be uniform throughout the state and the method of identification and signals to be used shall be as prescribed by the department of public instruction in cooperation with the Montana highway patrol.

Training of school safety patrol members.

Section 5. **Training of school safety patrol members.** Any municipality, city or town of this state may provide for the training of members of the school safety patrol at any authorized school patrol camp located in this state and may pay the expense necessarily incurred in providing such training, out of any funds available for said purpose.

Repealing clause.

Section 6. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 7. This act shall take effect from and after date of its passage and approval.

Approved March 4, 1965.

CHAPTER 171

An Act Providing for the Creation of New Districts Out of Other Districts, and Amending Section 75-1805, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-1805, R. C. M. 1947, is amended to read as follows:

HeinOnline -- 1965 457 1965

Creation of new school district from one or more existing school districts—limitations.

"75-1805. (1) A new school district may be created out of portions of one (1) or more existing school districts where the taxable valuation (the percentage valuation upon which levies are made and taxes computed) of property remaining in each district from which territory is taken is not reduced below seventy-five thousand dollars ($75,000.00) and where the number of census children between the ages of six (6) and sixteen (16) years is not reduced below fifteen (15). For the purpose of organizing a new school district out of one (1) or more existing districts, a petition in writing shall be made to the county superintendent of schools, signed by parents or guardians of at least ten (10) census children between the ages of six (6) and sixteen (16) years, residing within the boundaries of the proposed new district, and residing at a greater distance than three (3) miles from any schoolhouse owned by any one of such school districts in which a school is maintained. *The method for measurement of the distance between the residence and the schoolhouse shall be as provided in section 75-3411, R. C. M. 1947, insofar as the same may apply.* The petition shall describe the boundaries of the proposed new district and give the names of all children of school age residing therein at the date of the presenting of said petition. The petition shall also show the taxable valuation (the percentage valuation upon which levies are made and taxes computed) of the property within the proposed new district which must not be less than seventy-five thousand dollars ($75,000.00) as shown by the last completed assessment roll. Provided, however, that said provision as to the minimum remaining taxable valuation of each district from which territory is taken shall not apply in a case where such district has at least fifty thousand (50,000) acres of nontaxable Indian land remaining within its borders and provided, further, that said provision as to the minimum taxable valuation of such proposed new district shall not apply where such proposed district contains at least fifty thousand (50,000) acres of nontaxable Indian land.

Petition—by whom —to contain.

Notice of hearing —posting—protest.

(2) The county superintendent shall within five (5) days from the receipt of such petition give notice of the hearing of said petition by posting or causing to be posted, a notice thereof at least ten (10) days prior to the time appointed by him for consideration of said petition, in at least three (3) of the most public places in the

HeinOnline -- 1965 458 1965

proposed new district and one (1) on each schoolhouse door of each district affected by the proposed change, or if there be no schoolhouse, then in one (1) of the most public places in each of said old districts; and shall on the day fixed in the notice proceed to hear said petition at the place designated in said notice, which must be either at the courthouse of the county or else at the schoolhouse in one of the school districts affected, unless a protest in writing signed by at least a majority of the school electors, residing within such proposed school district shall be filed with the county superintendent of schools before or at the time fixed in the notice for the hearing of said petition, in which event the proposed school district shall not be created. If no such protest be filed, then the county superintendent, upon hearing the petition, shall within ten (10) days from the date of such hearing, make an order establishing the new district and describing the boundaries thereof, or make an order denying such petition.

Appeal—form —notice.

(3) An appeal may be taken to the board of county commissioners of the county, from either order made as aforesaid by three (3) resident taxpayers of either the old or the new district who are dissatisfied with said order. Such appeal shall be taken within thirty (30) days of the date of such order and upon the hearing of said matter by the board of county commissioners, a decision shall be rendered which shall be final. The appeals mentioned in this section shall be in writing, subscribed by the parties taking the appeal and shall recite sufficient facts to show their rights to appeal hereunder, and that it is an appeal from the decision rendered, and such an appeal shall be filed with the county superintendent within thirty (30) days from the date of the order establishing such new district or denying such petition. The county superintendent shall, within twenty (20) days from the filing of such notice of appeal transmit to the board of county commissioners, and file in the office of the county clerk, the notice of appeal and all petitions, plats, and papers in his possession pertaining to the petition for the creation of such new school district.

Notice of appeal to parties.

(4) The county clerk shall forthwith, upon receipt of such notice of appeal and other papers, give notice to all parties interested, by causing to be posted at least ten (10) days prior to the date of the next regular meeting

HeinOnline -- 1965 459 1965

of the board of county commissioners, in at least three (3) of the most public places in the proposed new district, and one (1) on each schoolhouse door of each district affected by the proposed change, or if there be no schoolhouse, then in one (1) of the most public places in each of said old districts, notices to the effect that the board of county commissioners will, at its office in the courthouse, upon a certain date, specifying the same in such notices, which date shall be during the next regular session of the board, finally hear and determine said appeal and said petition for the creation of such new district. The boundaries of any district can be changed in the following manner, to wit:

Petition for transfer of territory —limitations.

(5) A majority of the resident taxpayers who are registered electors and whose names appear upon the last completed assessment roll for state, county and school district taxes, residing in territory which is a part of any organized school district may present a petition in writing to the county superintendent of schools, asking that such territory be transferred to, or included in, any other organized district to which said territory is contiguous, provided, however, that no territory within three (3) miles of an established school in such district shall be so transferred. *Under this subsection, the three (3) miles shall be measured between a residence and a schoolhouse as provided in section 75-3411, R. C. M. 1947, insofar as the same may apply;* and provided further than the taxable valuation (the percentage valuation upon which levies are made and taxes computed) of property in the district from which territory is taken shall not be reduced to less than seventy-five thousand dollars ($75,000.00); provided, however, that this latter provision shall not apply in cases where the remaining taxable valuation of the district from which the territory is taken contains at least fifty thousand (50,000) acres of nontaxable Indian land.

Petition to include.

(6) The petition shall describe the territory which it is proposed to transfer or include, and shall also state the reason for desiring such change, and the number of children of school age, if any, residing in the territory to be transferred or included.

Filing of petition —notice—hearing —appeal.

(7) The county superintendent shall file said petition in his office immediately on receipt thereof, and shall give notice to the parties interested by posting notices at least ten (10) days prior to the time appointed for

HeinOnline -- 1965 460 1965

considering said petition, one (1) of which shall be in a public place in the territory which is proposed to be transferred or included, and one (1) on the door of each school house in each district affected by the change, or if there be no schoolhouse in such district, then in some public place in such district or districts, and at the time stated in said notice for the consideration of such petition, which shall not be less than ten (10) days nor more than thirty (30) days after the date of filing such petition, he shall proceed to hear such petition, and if he deem it advisable and for the best interest of the territory proposed to be transferred or included, he shall grant such petition and make an order fixing the boundaries of the district so changed, which order shall be final, unless an appeal be taken to the board of county commissioners of the county wherein such districts are located within thirty (30) days thereafter, and upon hearing thereof the decision of said board shall be final.

Certification of records.

(8) All the papers, documents, and records in the case shall be certified by the county superintendent to the county commissioners for their determination of the matter on appeal; provided, that lands lying contiguous to a district and not attached to any district shall be attached to an adjacent district by the county superintendent of his own motion, and provided further, that all districts shall consist of contiguous territory."

Approved March 4, 1965.

CHAPTER 172

An Act to Prohibit Waiver of Statutory Exemptions.

Be it enacted by the Legislative Assembly of the State of Montana:

Waiver of statutory exemptions is prohibited.

Section 1. Any waiver of statutory exemption from execution in an unsecured promissory note shall be unenforceable.

Approved March 4, 1965.

CHAPTER 173

An Act to Amend Section 26-104, R. C. M. 1947, Relating to Powers and Duties of the Fish and Game Commis-

HeinOnline -- 1965 461 1965

sion, by Authorizing the Commission to Acquire Easements Upon Land and Waters Suitable for Fish and Game Purposes, by Prescribing the Manner of Conveyance of Fish and Game Land and Waters Held in the Name of the State of Montana, by Authorizing the Commission to Fix Possession Limits and Season Limits of Fish and Game and to Declare Special Seasons to Take Game Birds and Fish and Furbearing Animals, and by Authorizing the Commission to Promulgate Rules Governing Use of Lands Acquired or Operated by It in the Interest of Public Health, Safety and Protection of Property.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 26-104, R. C. M. 1947, as amended, is amended to read as follows:

Powers and duties of commission—supervision of wildlife.

"Section 26-104. **Powers and duties of commission.** (1) The commission hereby created shall have supervision over all the wildlife, fish, game, and nongame birds, and waterfowl, and the game, and furbearing animals of the state, and shall possess all powers necessary to fulfill the duties prescribed by law with respect thereto, and to bring actions in the proper courts of this state for the enforcement of the fish and game laws of the state, and the orders, rules and regulations adopted and promulgated by the commission.

Enforce game laws.

(2) It shall have full power and authority to enforce all the laws of the state of Montana, respecting the protection, preservation and propagation of fish, game, and furbearing animals, game and nongame birds, within the state.

Expend state funds.

(3) It shall have the exclusive power to expend for the protection, preservation and propagation of fish, game, and furbearing animals, and game and nongame birds, all funds of the state of Montana collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise, all sums collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, or from fines, damages collected for violations of the fish and game laws of this state, from appropriations, or received by the commission from any other sources are hereby appropriated to and placed under control of the Montana fish and game commission.

HeinOnline -- 1965 462 1965

(4) It shall have power to discharge any appointee or employee of such commission for cause at any time. Discharge of employee.

(5) It shall have full power and authority to dispose of all property owned by the state of Montana, used for the protection, preservation and propagation of fish, game and furbearing animals, and game and nongame birds, which shall have been found to be of no further value or use to the state, and shall turn over proceeds arising therefrom to the state treasurer to be by him credited to the state fish and game fund. Dispose of property.

(6) It shall have full power and authority to use so much of the fish and game funds of the state as may be necessary for the construction, maintenance, operation, upkeep, and repair of fish hatcheries, game farms or other property or means and appliances for the protection and propagation of fish, game and furbearing animals, or game or nongame birds in the state of Montana, and it shall have the authority to appropriate moneys from the funds at its disposal for the extermination or eradication of predatory animals that destroy fish, game, or furbearing animals or game or nongame birds. Use of state funds.

(7) It shall have authority to provide for the importation of game birds and game and furbearing animals, and for the protection, propagation, and distribution of such imported or native birds and animals. Import wildlife.

(8) It shall have authority to spend so much of the state fish and game funds as may be necessary to introduce and propagate wild waterfowl food and for that purpose may secure expert advice as to what kinds of waterfowl foods are adapted to the climate, soil, and waters of this state. Use of funds for advice.

(9) It shall be its duty to furnish plans for, and to direct and compel the construction and installation and repair of fish ladders upon dams and other obstructions in streams, which, however, shall be installed and maintained at the expense of the owners of said dam or other obstruction. Plans and construction.

(10) It shall have the authority to purchase and maintain at the expense of the state fish and game fund suitable fish screens or fish wheels, or other devices, to install in irrigating ditches to prevent fish entering said ditches. Fish screens.

HeinOnline -- 1965 463 1965

Rearing ponds.

(11) It shall have authority to locate, lay out, construct and maintain nurseries and rearing ponds where fry can be planted, propagated and reared and when of suitable sizes, liberated and distributed in the waters of this state, and may expend from the state fish and game funds such sums as may be necessary for this purpose.

Acquire wildlife.

(12) It shall have authority to acquire by gift, purchase, capture, or otherwise, any fish, game, game birds, or animals, for propagation, experimental or scientific purposes.

Acquire lands or waters—wildlife.

(13) It shall have authority to acquire by purchase, condemnation, lease, agreement, gift, or devise, *or to acquire easements upon,* lands or waters suitable for the purposes hereinafter enumerated, and develop, operate and maintain the same for said purposes: (a) For fish hatcheries, nursery ponds, or game farms; (b) Lands or waters suitable for game, bird, fish, or furbearing animal restoration, propagation, or protection; (c) For public hunting, fishing, or trapping areas to provide places where the public may hunt, trap, or fish in accordance with the provisions of law or the regulations of the commission; (d) To extend and consolidate by exchange lands or waters suitable for the above purposes; (e) To capture, propagate, transport, buy, sell, or exchange any species of game, bird, fish, fish eggs, or furbearing animals needed for propagation or stocking purposes, or to exercise control measures of undesirable species. *It shall further have full authority to dispose of lands and waters acquired by it on such terms after such public notice, and without regard to other laws of this state which provide for sale or disposal of state lands, and with or without reservation, as it deems necessary and advisable, provided that notice of sale describing the lands or waters to be disposed of shall be published once a week for three (3) successive weeks in a newspaper with general circulation printed and published in the county wherein the lands or waters are situated, or if no newspaper be printed and published in such county then in any newspaper with general circulation in such county, advertising for cash bids to be presented to the commission or its director within thirty (30) days from the date of the first publication, each bid to be accompanied by a cashiers check or cash deposit in an amount equal to ten per cent (10%) of the amount bid; the highest bid shall be accepted upon payment of the balance*

Dispose of lands and waters.

HeinOnline -- 1965 464 1965

due within ten (10) days after mailing notice by registered mail to the highest bidder; if such bidder shall default on payment of the balance due, then the next highest bidders shall be similarly notified in succession until a sale is completed; thereupon deposits shall be returned to the unsuccessful bidders except bidders defaulting after notification; the commission shall reserve the right to reject any or all bids which do not equal or exceed the full market value of such lands and waters as determined by the commission; the commission shall convey such lands and waters by deed without covenants of warranty, executed by the governor, or in his obsence or disability by the lieutenant governor, attested by the secretary of state, and further countersigned by the chairman of the state fish and game commission, attested by the secretary of the commission, and have the great seal of the state of Montana and the seal of the state fish and game commission thereto affixed, but need not be acknowledged.

Cooperative agreements.

(14) It shall have authority to enter into cooperative agreements with educational institutions and state, federal, or other agencies, to promote wildlife research and to train men for wildlife management. It shall have authority to enter into cooperative agreements with federal agencies, municipalities, corporations, organized groups of landowners, associations and individuals for the development of game, bird, fish, or furbearing animal management and demonstration projects.

Fix seasons and limits—areas—licenses.

(15) It shall have authority to fix seasons, bag limits, *possession limits and season limits; to* open or close, shorten or lengthen seasons on any species of game, bird, fish or furbearing animal as defined by section 26-201 of this code, and to declare areas open to the hunting of deer, antelope and elk by bow and arrow permit holders, and during times when only bow and arrows may be used, to hunt deer, antelope and elk in such areas; it is authorized to declare areas open to deer hunting where shotguns only may be used to hunt or kill deer; and it is authorized to declare areas which may be open to special license holders only, and issue special licenses in a limited number when it shall determine, after proper investigation, that such a season is necessary to assure the maintenance of an adequate supply of game *birds, fish or* animals, *or furbearing animals,* or to declare such a special season and issue special licenses whenever game *birds or*

HeinOnline -- 1965 465 1965

animals or furbearing animals are causing damage to private property, or when written complaint of such damage has been filed with the state fish and game commission by the owner of such property, and in determining to whom such licenses shall be issued, it may, when more applications are received than the number of animals to be killed, award permits to those chosen under a drawing system.

Refuges.

(16) It shall have authority to establish and close to hunting, trapping or fishing, game, bird or fish refuges on public lands and, with the consent of the owner, on private lands; and close streams and lakes, or parts thereof, to hunting, trapping or fishing.

Districts.

(17) It shall have authority to divide the state into fish and game districts, and to create fish, game, or furbearing animal districts throughout the state of Montana and to declare closed season for hunting, fishing, or trapping in any of said districts, so created, and later to open said districts to hunting, fishing, or trapping.

Closed season.

(18) It shall have authority to declare a closed season on any species of game, fish, or game birds, or furbearing animals threatened with undue depletion, from any cause, and to close any area or district of any stream, public lake, or public water, or portions thereof, to hunting, trapping or fishing, for limited periods of time, when such action is necessary to protect recently stocked area, district, water, spawning waters, spawn-taking waters, or spawn-taking stations, or to prevent the undue depletion of fish, game and furbearing animals and game and nongame birds, and later to open the same upon consent of a majority of the property owners affected.

Establish game refuges.

(19) It shall have authority to establish game refuges for the purpose of providing safe sanctuaries in which game and furbearing animals or game or nongame birds may breed and replenish. Such refuges shall be established by order of the commission upon the petition and proper showing that such action is, in judgment of the fish and game commission, necessary and in the best interest of the wildlife within the area, to be included within such refuge, it being the purpose of this provision to establish small refuges rather than large preserves or rather than to close large areas to hunting or trapping.

HeinOnline -- 1965 466 1965

Protect certain areas.

(20) It shall have authority to designate and protect certain areas as resting, feeding and breeding grounds for migratory birds, in which hunting and molestation shall be forbidden; it being the purpose of this provision not to interfere unduly with the hunting of waterfowl, but to provide havens in which they can rest, feed, and breed without molestation.

Petition—notice —hearing.

(21) After petition has been duly filed with the secretary of the commission, praying that an area shall be set aside as a game refuge or haven, the said secretary shall immediately publish a notice in a paper of general circulation in the county in which said area is proposed, that a hearing in connection therewith will be held at such place in said county as may be designated on a day not less than fifteen (15) days from the date of the first publication to be specified in said notice, at which time and place all interested parties shall have the right to appear and be heard.

Educational and biological department.

(22) It shall have authority to establish and maintain an educational and biological department of their work for the collection and diffusion of such statistics and information as shall be germane to the purpose of this act.

Firearm permits.

(23) It shall not have authority to issue permits to anyone to carry firearms within the confines of the state of Montana, except to regularly appointed officers and/or fish and game wardens who are paid by the state of Montana.

Close fishing waters.

(24) It shall have authority to declare certain fishing waters within the state of Montana closed to fishing by all persons, excepting therefrom that class of persons whose ages are twelve (12) years or less; it being the purpose of this section to provide suitable fishing waters for the exclusive use and enjoyment of juveniles of the age of twelve (12) years or less, at such times and in such areas as the state fish and game commission shall in its discretion deem advisable and consistent with its policies relating to fishing in the state of Montana.

Rules and regulations—lands.

(25) It shall have authority to promulgate and enforce rules and regulations governing uses of lands acquired, or held under easement, by the commission, or lands which it operates under agreement with or in conjunction with a federal or state agency or private owner. Such rules

HeinOnline -- 1965 467 1965

shall be promulgated in the interest of public health, public safety and protection of property in regulating the use of these lands. Provided further all lease and easement agreements shall itemize uses as listed in subparagraph 13, Section 26-104, R. C. M. 1947.

Rules and regulations—reservoirs and lakes.

(26) It shall have authority to promulgate and enforce rules and regulations governing recreational uses of public fishing reservoirs and lakes constructed by the commission or on reservoirs and lakes which it operates under agreement with or in conjunction with a federal or state agency or private owner.

Such rules shall be promulgated in the interest of public health, public safety and protection of property in regulating swimming, *hunting, fishing, trapping,* boating, *including but not limited to boating speed regulations,* water skiing, surf boarding, picnicking, camping, sanitation and use of firearms on such reservoirs or at designated areas along the shore of such reservoirs. These rules shall be subject to review and approval by the state board of health as to public health and sanitation before becoming effective. Copies of such rules shall show such endorsement."

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 4, 1965.

CHAPTER 174

An Act to Provide Visiting Nurse Services to Be Performed by Public Health Nurses at the Direction of Licensed Physicians and Surgeons; Providing That County, City-County or District Boards of Health May Accept Payment for Such Services Either Directly or by Contract With the Recipients or Public Agencies; and Providing that Payments Made for Visiting Nurse Services Shall Be Deposited in a Special Fund to Be Used to Defray the Cost of the Services.

Be it enacted by the Legislative Assembly of the State of Montana:

Nursing service for person confined to home.

Section 1. In any case where a person is confined to his home or usual place of abode under the care of a

HeinOnline -- 1965 468 1965

licensed physician and surgeon and said physician and surgeon determines that such person requires nursing services which can be provided by a duly qualified nurse who visits said person at the direction of said physician and surgeon, said visiting nurse services may be provided by nurses employed by the county, city-county or district board of health.

Limitation.

Section 2. No visiting nurse services as provided for in this act shall be performed except as directed by a duly licensed physician and surgeon who shall have determined a need for such services. In addition to determining the need for such services in the initial instance, said physician and surgeon directing that such services by performed shall specify the type of services to be performed and the duration of the services.

Rates for services —payment.

Section 3. Persons who receive visiting nurse services as provided for in this act shall pay for them at rates to be determined by the county, city-county or district board of health which employs the nurses who perform the services provided for in this act. The county, city-county or district board of health may accept payment for such services from persons or public or private agencies on behalf of the recipients, either directly or by contract with such persons or agencies. The amounts of money received from persons to whom such visiting nurse services are rendered shall be deposited in a special fund and used to defray the expense of providing the service.

Repealing clause

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 5. This act shall be in full force and effect from and after its passage.

Approved March 4, 1965.

CHAPTER 175

An Act to Amend Section 32-2170, R. C. M. 1947, Relating to Right of Way of Vehicles at Intersections Not Controlled by Sign or Signals; by Eliminating the Provision Which Grants Right of Way to First Vehicle Which Has Entered Intersection; Requiring Vehicles

HeinOnline -- 1965 469 1965

Approaching Intersection to Yield to Vehicle on Right; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 32-2170, R. C. M. 1947, be, and the same is hereby amended to read as follows:

Vehicle approaching or entering intersection.

"32-2170. **Vehicle approaching or entering intersection.** *(a)* When two (2) vehicles enter *or approach* an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

(b) The right of way *rule* declared in *paragraph* (a) *is* modified at through highways and otherwise as hereinafter stated in this article."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1965.

CHAPTER 176

An Act Amending Section 32-1014, R. C. M. 1947, Making Unlawful the Dumping of Garbage on Private or Public Property Where Public Recreation Is Permitted.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-1014, R. C. M. 1947, is amended to read as follows:

Unlawful to deposit garbage—where.

"Section 32-1014. *(1) It is unlawful for a person to dump or leave garbage:*

(a) on or within two hundred yards of a public highway, road, street, or alley or public recreational property, under the control of the state of Montana or department, political subdivision officer, or agent thereof

(b) on privately owned property where hunting, fishing or other recreation is permitted without the permission of the owner or person in possession of such private property.

Violation—penalty.

(2) Any person guilty of a violation of this section

HeinOnline -- 1965 470 1965

shall be fined not *more than one hundred* dollars ($100), or imprisoned in the county jail for a period not exceeding thirty (30) days, or be punished by both such fine and imprisonment, in the discretion of the court. The provisions of this section shall be enforced by all *state, county and city* enforcement agencies and officers. *However, the* game wardens shall enforce the provisions of this section *on* public recreational property *and on private property where public recreation is permitted."*

Approved March 4, 1965.

CHAPTER 177

An Act Relating to Surety Bonds for State Officers and Employees: Providing That the State Controller Shall Purchase All Surety Bonds for State Officers and Employees; Establishing Requirements and Procedures for the Purchase of Such Bonds; Amending Sections 5-602, 6-325, 6-326, 6-331, 3-103, 3-205, 4-106, 4-110, 5-603, 26-102, 26-111, 26-115, 27-404, 32-1601, 32-1602, 40-1727, 41-1603, 44-404, 53-101, 66-407, 66-514, 66-904, 66-1505, 66-2203, 66-2333, 71-202, 71-203, 72-102, 75-303, 75-1301, 75-2703, 77-120, 80-1205, 81-201, 81-208, 81-1403, 81-2010, 81-2013, 82-107, 82-601, 82-1230, 82-3105, 89-103, 89-118, 90-122, R. C. M. 1947; and Repealing Sections 3-407, 6-101, 6-102, 6-103, 6-104, 46-702, 66-810, 77-1004, 79-809, 82-404, 82-507, 82-1013, 82-1907, 82-2213, 92-106 and 92-107, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

State controller shall purchase surety bonds for state officers and employees—exclusions.

Section 1. **The state controller shall purchase all surety bonds for state officers and employees.** As used in this act, the term "state officers and employees" does not include notaries public, supreme court justices, district court judges or members and employees of the legislative assembly. A bond may cover an individual officer or employee or group of officers and employees. The form of all bonds shall be prescribed by the controller, subject to the approval of the attorney general.

All state officers and employees shall be bonded—amount.

Section 2. **All state officers and employees shall be bonded.** Before determining the amount for which a state officer or employee shall be bonded, the controller shall

HeinOnline -- 1965 471 1965

consult with the head of the institution or agency involved and the head of the agency responsible for the examination or postauditing of state agencies. The amount for which a state officer or employee shall be bonded shall be based on the amount of money or property handled and the opportunity for defalcation. If a state officer or the head of an agency, board or department feels that the amount of the bond set by the controller is excessive or inadequate, he may appeal to the board of examiners, whose decision shall be final. All bonds shall be purchased by competitive bid.

Competitive bid. Insurance or surety companies.

Section 3. Bonds purchased by the state controller shall be executed by responsible insurance or surety companies admitted and authorized to execute surety bonds in this state.

Proration of premiums among agencies.

Section 4. **The state controller shall prorate the premiums for bonds covering more than one state agency or institution among the state agencies and institutions whose officers and employees are covered.** Such proration shall be based on the risk of bonding the officers and employees of each agency or institution. The controller shall order payment of the prorated amount from moneys which are available to such agencies or institutions for the payment of general administrative expenses.

Saving clause.

Section 5. This act shall not affect the validity of bonds in effect on the effective date of this act.

Amending clause.

Section 6. Section 325, R. C. M. 1947, is amended to read as follows:

Release of sureties.

"6-325. **Release of sureties.** Any surety on the official bond of any county, city, town, or township officer, or on the official bond of any executor, administrator, guardian, or on the bond or undertaking of any person where by law a bond or undertaking is required, may be released from all liability thereon accruing from and after proper proceedings had therefor, as provided in this act."

Amending clause.

Section 7. Section 6-326, R. C. M. 1947, is amended to read as follows:

Proceedings to obtain release from bond—statement —notice.

"6-326. **Proceedings to obtain release from bond—statement—notice.** Any surety desiring to be released from liability on the bond of any *county or township* officer shall file a statement in writing, duly subscribed by

HeinOnline -- 1965 472 1965

himself, or some one in his behalf, setting forth the name and office of the person for whom he is surety, the amount for which he is liable as such, and his desire to be released from further liability on account thereof. A notice containing the object of such statement shall be served personally on the principal, unless he shall have left the state, or his whereabouts cannot after due and diligent search and inquiry be ascertained, in which case the same may be served by publication once a week for four (4) successive publications in some newspaper of general circulation published in the county where the bond is filed on record. The statement, except when the county clerk or county commissioners are principals, shall be filed with the county clerk, and when the county clerk or county commissioners are principals, the statement shall be filed with the district judge. Any surety desiring to be released from liability on the bond of any city or town officer shall file and serve a similar statement with the city or town clerk or mayor. Any surety desiring to be released from an executor's, administrator's or guardian's bond or undertaking shall file and serve a similar statement with the proper officer, person, or authority where the bond is filed on record. All statements provided for in this section must be served personally on the principal as in this section provided, if he can be found for service in the state of Montana; if not he may be served by publication in a newspaper at the county seat as hereinbefore provided, or if no newspaper be published thereat, then in an adjoining county, without any order from any court or other authority: provided further, in all cases for which publication is provided, a printed or written notice posted in at least ten (10) conspicuous places in the county for the time specified for publication of said notice shall be deemed legal notice thereof."

Section 8. Section 6-331, R. C. M. 1947, is amended to read as follows: Amending clause.

"6-331. **Applicable to what bonds.** The provisions of this chapter apply to the bonds of county, town, or township officers or on the official bond of any executor, administrator, guardian or on the bond or undertaking of any person where by law a bond or undertaking is required *except state officers and employees.*" Applicable to what bonds.

HeinOnline -- 1965 473 1965

Amending clause.

Section 9. Section 3-103, R. C. M. 1947, is amended to read as follows:

Salary and office of commissioner.

"3-103. **Salary, and office of commissioner.** Before entering upon the duties of his office, the commissioner of agriculture shall take and subscribe the constitutional oath of office. The commissioner shall receive an annual salary of not more than ten thousand dollars ($10,000.00), payable in the same manner as the salaries of other state officers, and shall be allowed such expenses as may be actually and necessarily incurred in the performance of his duties. He shall maintain his office at the state capitol."

Amending clause.

Section 10. Section 3-205, R. C. M. 1947, is amended to read as follows:

Inspectors of grain —samplers and weighers—qualifications—interest.

"3-205. **Inspectors of grain—samplers and weighers—qualifications—interest.** The commissioner of agriculture shall appoint a chief inspector of grain for the state, who shall also serve as chief weigher of grain for the state, and such number of inspectors, samplers and weighers as may be necessary to properly and thoroughly enforce the provisions of this act. At all inspection points designated by the commissioner he shall provide sufficient inspectors and weighers to inspect and weigh all grain subject to state inspection, under the supervision of the chief inspector; provided, however, that grain held in transit for inspection and diversion only, need not be weighed. Such chief inspector and inspectors shall be able to qualify under the terms and in accordance with the United States federal grain standards act. No chief inspector, inspector, sampler or weigher shall be interested directly or indirectly in the handling, sorting, shipping, purchasing or selling of grain or grain products."

Amending clause.

Section 11. Section 4-106, R. C. M. 1947, is amended to read as follows:

Appointment of liquor administrator and assistant —oath of office of board members—quorum.

"4-106. **Appointment of state liquor administrator and assistant — oath of office of board members — quorum.** The board shall choose one (1) of its own members as chairman, and shall appoint a state liquor administrator, who shall not be a member of the board and who shall be ex officio the secretary of the board. The board may also, in its discretion, appoint an assistant state liquor administrator and other employees. Each member of the board

HeinOnline -- 1965 474 1965

shall take and file the constitutional oath of office before entering the performance of his duties. A majority of the members of the board shall constitute a quorum for the transaction of business."

Section 12. Section 4-110, R. C. M. 1947, is amended to read as follows: Amending clause.

"4-110. **State liquor administrator—oath.** The state liquor administrator, before entering upon the performance of his duties, shall take and file the constitutional oath of office and he shall devote his whole time and attention to the administration of the state liquor control act of Montana and the Montana beer act and shall receive no other compensation from any source whatsoever, or follow no other occupation." State liquor administrator —oath.

Section 13. Section 5-603, R. C. M. 1947, is amended to read as follows: Amending clause.

"5-603. **State superintendent of banks — employees.** The superintendent of banks shall have the power and authority with the approval of the governor to appoint such clerk and examiners, both regular and special, one of whom may be designated chief examiner, as may be necessary for the proper transaction of the business of the department. The examiners shall qualify by taking the oath of office required of other state officers and be commissioned by the superintendent of banks as such examiners." State superintendent of banks— employees.

Section 14. Section 26-111, R. C. M. 1947, is amended to read as follows: Amending clause.

"26-111. **Oath of state fish and game director and wardens.** Before entering upon his official duties, the state fish and game *director* and *state fish and game wardens* shall take and subscribe the constitutional oath of office and shall in addition thereto, swear, or affirm, that he holds no other position or office, nor any position under any political committee or party. Such oath or affirmation shall be filed in the office of the secretary of state. Oath of fish and game director and wardens.

Section 15. Section 26-115, R. C. M. 1947, is amended to read as follows: Amending clause.

"26-115. **Superintendent of state fisheries — appointment.** The state fish and game *director* shall have general Superintendent of state fisheries —appointment.

HeinOnline -- 1965 475 1965

supervision over all hatcheries in the state, and shall with the consent and approval of the commission appoint and employ a superintendent of fisheries, who shall be a competent person and a skilled fish culturist. The output of all state hatcheries shall be used to stock the lakes and streams of the state and shall be for free and impartial distribution within the state, such distribution to be under the direction of said superintendent of fisheries subject to an official order of the state fish and game *director*. The state fish and game *director* shall have the power to exchange spawn or fish with other states or persons for distribution in this state.

Amending clause.

Section 16. Section 27-404, R. C. M. 1947, is amended to read as follows:

Milk control board —term —qualifications.

"27-404. **Milk control board.** There is hereby constituted a milk control board to consist of five (5) members, who shall be appointed by the governor, with the consent of the senate, for terms of office as herein provided, and with the following qualifications: No appointee shall be connected in any way with the production, processing, distribution, or wholesale or retail sale of milk or dairy products in any manner whatsoever; no appointee shall have held elective or appointive public office during the period of two years immediately preceding his appointment and no appointee shall hold any other public office, either elective or appointive, during his term of office as a member of the milk control board; and not more than three (3) members of the said milk control board shall, at the time of appointment or thereafter during their respective terms of office, be members of the same political party or residents of the same congressional district.

Appointment.

The members of said milk control board shall be appointed within thirty (30) days after passage and approval of this act. The term of office of one member shall expire on July 1, 1960; the term of office of one member shall expire on July 1, 1961; the term of office of one member shall expire on July 1, 1962; the term of office of one member shall expire on July 1, 1963; the term of office of one member shall expire on July 1, 1964; and each succeeding member shall hold his office for a term of five (5) years and until his successor shall have been appointed and qualified. Any vacancy shall be filled by

HeinOnline -- 1965 476 1965

appointment by the governor, with the consent of the senate as hereinbefore provided, for the unexpired term.

Consumer members. Consumer members of the existing milk control board at the time of the passage of this act may be reappointed by the governor at his discretion for any of the terms above mentioned and persons whom he shall appoint for those initial terms expiring in 1960, 1961, and 1962 shall be eligible for reappointment to full five year terms on the board; provided, however, that after 1962 no member other than one who is appointed a fill a vacancy shall be appointed to succeed himself on said board.

Quorum. Three (3) members of the board shall constitute a quorum for the regular transaction of business.

Chairman. The board shall choose one (1) of its own members as the chairman, who shall hold office as chairman for one year; provided, election as chairman shall not interfere with that member's right to vote on all matters before the board.

Compensation. Each member of the board shall receive twenty-five dollars ($25.00) per diem for each day actually spent in the performance of his official duties, plus his actual necessary traveling and other expenses in going to, attending and returning from meetings of the board and his actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested of him by a majority vote of the board, but in no event shall a member's per diem payments exceed fifteen hundred dollars ($1500.00) in any one year.

Assistants. The board may employ necessary assistants and appoint agents and instrumentalities but all expenditure under this act shall be paid from the receipts hereunder.

Executive secretary. The board shall have the power and it shall be its duty to designate an executive secretary who shall serve under the direction and at the pleasure of the board and who shall have charge of the administration of the board's orders, rules, and regulations, and who shall also serve as financial officer of the board and who shall be authorized to accept or receive money paid or to be paid to the board, either as license fees or fines as provided by this act.

Meetings. Meetings of the board shall be had at least every sixty

HeinOnline -- 1965 477 1965

(60) days at the call of the chairman or a majority of the board. The salary of the secretary is to be fixed by the board and the state board of examiners. The board shall so enforce the act that there shall be no discrimination against any dealer or consumer."

Amending clause.

Section 17. Section 32-1601, R. C. M. 1947, is amended to read as follows:

State highway commission—creation—salary —term of office.

"32-1601. **State highway commission—creation—salary —term of office.** (1) There is hereby created a commission to be known as the state highway commission to consist of five (5) members to be appointed by the governor with the consent of the senate for terms of office as herein provided, and with the qualifications herein specified, and each of said members shall be a citizen of the United States and of the state of Montana.

Districts.

(2) One (1) of said members shall be a bona fide resident of a district consisting of the following counties: Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Ravalli, Granite, Lewis and Clark, Jefferson and Broadwater; and one (1) shall be a bona fide resident of a district consisting of the following counties: Powell, Deer Lodge, Silver Bow, Beaverhead, Madison, Gallatin, Meagher, Wheatland, Park and Sweet Grass; and one (1) shall be a bona fide resident of a district consisting of the following counties: Glacier, Toole, Liberty, Hill, Blaine, Pondera, Teton, Chouteau, Cascade, and Judith Basin; and one (1) shall be a bona fide resident of a district consisting of the following counties: Fergus, Petroleum, Garfield, Phillips, Valley, McCone, Prairie, Dawson, Wibaux, Richland, Roosevelt, Daniels and Sheridan; and one (1) shall be a bona fide resident of a district consisting of the following counties: Golden Valley, Stillwater, Carbon, Big Horn, Yellowstone, Musselshell, Rosebud, Treasure, Custer, Powder River, Carter and Fallon. Provided that said districts are herein referred to only for the purpose of defining the sections of the state of Montana from which the members of said commission shall be appointed.

Appointment.

(3) The members of said state highway commission shall be appointed within ten (10) days after the passage of this act. The terms of office of three (3) of the members shall be for four (4) years, and shall expire on February 1, 1957; and the terms of office of the two (2) remaining members shall be for two (2) years, and shall

HeinOnline -- 1965 478 1965

expire on February 1, 1955, and thereafter each succeeding commissioner shall hold his office for a term of four (4) years, and until his successors shall have been appointed and qualified. In case of a vacancy the person appointed to fill such vacancy shall hold office for the unexpired term in which the vacancy occurs, and such vacancy shall be filled by appointment by the governor with the consent of the senate as hereinbefore provided.

Limitation.

(4) No two (2) members of said state highway commission shall at the time of appointment or thereafter during their respective terms of office be residents of the same district, as defined in *sub*section (2). Not more than three (3) members of said state highway commission, except the first appointments to said state highway commission, shall, at the time of appointment or thereafter during their respective terms of office, be members of the same political party. No elective state official or state officer during the term of office to which he was elected or appointed, or state employee shall be a member of said commission. No state highway commissioner shall be removed from office by the governor before the expiration of his term unless for a disqualifying change of residence of for a cause based upon determination of incapacity, incompetence, neglect of duty and malfeasence in office.

Chairman—"state highway engineer."

(5) The commission shall choose one (1) of its own number as the chairman, who shall hold office for one (1) year; provided, election as chairman shall not interfere with the member's right to vote on all matters before the commission, and shall have the power to appoint an engineer to be know as the "state highway engineer" and other employees of the commission, and shall fix the salaries of such engineer and other employees.

Compensation.

(6) Each member of the state highway commission shall receive fifteen dollars ($15.00) per diem for each day actually spent in the performance of his duties and his actual necessary traveling and other expenses in going to, attending and returning from meetings of the commission, and his actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested of him by a majority vote of the commission, but in no event shall a commissioner's per diem pay-

HeinOnline -- 1965 479 1965

ments exceed fifteen hundred dollars ($1,500.00) in any one (1) year.

Amending clause.

Section 18. Section 32-1602, R. C. M. 1947, is amended to read as follows:

Meetings—engineer—duties.

"32-1602. **Meetings—engineer—duties.** The state highway commission shall meet at least once each month for the purpose of transacting its business, including the consideration of claims and the letting of contracts. Three (3) members shall constitute a quorum at any meeting, but no resolution, motion, or other decision of the commission shall be adopted or passed without the favorable vote of at least three (3) members. The state highway engineer shall perform any acts or duties relating to the office of the highway commission which said commission may, from time to time, impose upon him; such engineer shall take and file the constitutional oath of office before entering the performance of his duties; and may be removed by the commission at any time for cause."

Amending clause.

Section 19. Section 40-1727, R. C. M. 1947, is amended to read as follows:

Bonds.

"40-1727. **Bonds which may be furnished by** *county, city or township* **officers.** Whenever an official bond is required of any county, city or township officer, such officer may furnish either a surety company bond, or a good and sufficient individual bond, executed and approved as required by law or may furnish such other security as may be approved by the person, officer, or board authorized by law to examine and approve such official bond; provided, that where such officer shall furnish a surety company bond, the premium therefor shall be a proper charge against the general fund of the county, or city, as the case may be; provided, further, that the provisions of this section, making such premium a charge against the general fund of the county, city, town or township shall not be constdued to include any deputy, clerk or subordinate officer, where a bond is required to be furnished by the principal or body appointing the same."

Amending clause.

Section 20. Section 41-1603, R. C. M. 1947, is amended to read as follows:

Commissioner of labor and industry—term—salary—oath.

"41-1603. **Commissioner of labor and industry—term—salary—oath.** The term of office of the commissioner of labor and industry shall be four (4) years and until

HeinOnline -- 1965 480 1965

his successor is appointed and qualified. The commissioner shall receive an annual salary of not more than seven thousand five hundred dollars ($7,500), payable monthly. Before entering on the duties of his office, he must take and subscribe to the oath of office prescribed by section 1, article XIX of the Montana Constitution."

Amending clause.

Section 21. Section 44-404, R. C. M. 1947, is amended to read as follows:

Librarian—term of office.

"44-404. **Librarian—term of office.** The librarian appointed by the board shall hold office for the term of two (2) years, unless sooner removed by a majority vote of the trustees."

Amending clause.

Section 22. Section 53-101, R. C. M. 1947, is amended to read as follows:

Duties of registrar of motor vehicles —records. Note: Portions of subsections (1) and (4) and all of subsections (2) and (3), Section 53-101, R.C.M. 1947, are omitted.

"53-101. **Duties of registrar of motor vehicles—records.** 1. The warden of the state penitentiary shall be, and is hereby constituted the registrar of motor vehicles, trailers and semitrailers, of motor and accessories dealers name of the applicant, his residence and address by town and county, his business address, the distinctive number assigned him, and the name or names of new cars handled by him.

Deputies, subordinate officers, clerks, investigators—salaries.

5. The registrar of motor vehicles shall appoint such deputies, subordinate officers, clerks, investigators and other employees as may be necessary to carry out this act, providing there be selected as many of the clerical help from the inmates of the state prison as the registrar determines to be possible. The salaries of all such appointees shall be fixed by the registrar of motor vehicles as authorized by the state board of examiners, with respect to salaries of other subordinate state officers and employees.

Equipment, books, files and records—care and custody.

6. All office equipment, books, files and records belonging to the motor department shall be in the care and general custody and control of the registrar of motor vehicles at the state penitentiary. In order to prevent an accumulation of records and files which shall have ceased to be of any value the registrar of motor vehicles shall have the authority and it shall be his duty to destroy all correspondence, motor card and application card records after the expiration of five (5) years from the date thereof, and all conditional sales contracts and

HeinOnline -- 1965 481 1965

chattel mortgages and records pertaining thereto after the expiration of five (5) years after the date the same have ceased to be liens on the motor vehicles described therein.

Short-wave radio station.

7. The registrar may establish and maintain a short-wave radio station in order to report motor vehicles registration information to the highway patrol, sheriffs, and to chiefs of police of each incorporated city of the state who are able to communicate with such short-wave radio station.

Records open to inspection.

8. All such records shall be open to inspection during all reasonable business hours and the registrar of motor vehicles shall furnish any information from said records upon payment by the applicant of the cost of transcribing the information requested."

Amending clause.

Section 23. Section 66-407, R. C. M. 1947, is amended to read as follows:

Officers—official seal—record of proceedings.

"66-407. **Officers, official seal.** The board shall elect a president, secretary and treasurer. It shall adopt and use a common seal for the authentication of its orders and records. The secretary shall keep a record of all proceedings of the board. At least once a month all moneys collected by the board shall be deposited with the state treasurer to the credit of the earmarked revenue fund for the use of the board of barber examiners."

Amending clause.

Section 24. Section 66-514, R. C. M. 1947, is amended to read as follows:

Dismissal of board members.

"66-514. *D*ismissal of members of board. Upon sufficient proof to the governor of the inability or misconduct of a member of the board, said member shall be dismissed, and the governor shall appoint as his successor some licensed chiropractor practicing in this state, who shall be a graduate of a different school than those represented on the board."

Amending clause.

Section 25. Section 66-904, R. C. M. 1947, is amended to read as follows:

Meetings.

"66-904. **Meetings—notice—quorum—funds—duties—accounts.** The board shall meet at least once in each year or oftener at any point in the state of Montana at the call of the president and the secretary-treasurer. Five

HeinOnline -- 1965 482 1965

days' notice must be given by the secretary-treasurer to all board members of the time and place of the meeting of said board. The regular annual meeting of the board shall be held on the second Monday in July of each year. Three members of said board shall constitute a quorum for the transaction of business and its proceedings shall be open to public inspection in all cases of public interest. All moneys received by the board and/or its officers for the board, shall be deposited with the state treasurer to the credit of the earmarked revenue fund for the use of the state board of dental examiners.

Notice.

Quorum.

Funds.

The secretary-treasurer shall keep a complete record of all meetings and proceedings of which records the secretary-treasurer shall be custodian, and he shall keep a true and complete account of all moneys received and disbursements made by the board and by him as such officer. The secretary-treasurer shall, not later than the fifteenth day of January of each year, cause to be prepared, a full, true and accurate account of all moneys received, and of all expenditures made, including per diem and expenses of each board member, during the last preceding calendar year. A copy of such account shall be delivered to the governor of Montana and like copies shall be mailed to every registered dentist in the state of Montana."

Duties.

Accounts.

Section 26. Section 66-1505, R. C. M. 1947, is amended to read as follows:

Amending clause.

"66-1505. **Salaries and expenses of officers of board.** Each member of the board shall receive five dollars ($5.00) a day for his actual services as such, and his necessary expenses in attending meetings. The secretary shall receive a salary to be fixed by the board, and all expenses necessarily incurred by him in the performance of his duties.

Compensation.

Section 27. Section 66-2203, R. C. M. 1947, is amended to read as follows:

Amending clause.

"66-2203. **Expenses and funds—records and reports.** Each member of the board shall be entitled to receive all necessary traveling and subsistence expenses. The secretary-treasurer shall receive an additional salary to be fixed annually by the board and not to exceed five hundred dollars ($500.00) per annum. The board shall keep

Expenses and funds —records and reports.

HeinOnline -- 1965 483 1965

full and complete minutes of its proceedings and of its receipts and disbursements and a full and accurate list of all persons licensed and registered by it, and such records shall be public records, and shall, at all times, be open to public inspection. All moneys received by the board shall be deposited with the state treasurer to the credit of the earmarked revenue fund for the use of the state board of veterinary examiners. Said board shall, not later than July fifteenth of each year, submit to the governor a full and complete report of its proceedings during the twelve (12) months immediately preceding."

Amending clause.

Section 28. Section 66-2333, R. C. M. 1947, is amended to read as follows:

Receipts and disbursements—secretary—assistants.

"66-2333. **Receipts and disbursements—secretary—assistants.** The secretary of the board shall receive and account for all moneys derived under the provisions of this act, and shall pay the same monthly to the state treasurer, who shall deposit such moneys in the earmarked revenue fund for the use of the state board of registration for professional engineers and land surveyors. The secretary of the board shall receive such salary as the board shall determine in addition to the compensation and expenses provided for in section 66-2329. The board may appoint an assistant secretary or executive secretary or may employ such clerical or other assistants as are necessary for the proper performance of its work."

Amending clause.

Section 29. Section 71-202, R. C. M. 1947, is amended to read as follows:

Appointment of state board—creation—qualification.

"71-202. **Appointment of state board—creation—salary.** (a) The state board of public welfare shall consist of five (5) members appointed by the governor with the advice and consent of the senate on the basis of a broad experience and interest in civic affairs and matters of public welfare. The members of the state board, no more than three (3) of whom shall be of the same political party, shall be appointed on or before February 1st of each year in which the terms of members expire, to hold office for overlapping terms of four (4) years each; provided, however, that the persons heretofore appointed and now serving as such shall constitute the state board of public welfare under this act, until their successors are appointed. The governor shall fill the first two (2) vacan-

HeinOnline -- 1965 484 1965

cies in the state board as now constituted by the appointment of members whose terms shall expire on March 3, 1955, and shall fill the remaining three (3) vacancies in the state board as now constituted by the appointment of members whose terms shall expire on March 3, 1957. Board members may be removed by the governor for cause.

Qualifications.

(b) Each member of the state board shall be a citizen of the United States and a resident of the state of Montana for a period of five (5) years immediately preceding the date of his appointment. Appointments to fill vacancies in the membership of the state board shall be made by the governor for the remaining portion of such term.

Oath.

(c) The members of the state board shall take and subscribe to the constitutional oath of office.

Chairman.

(d) The governor shall designate the chairman of the state board and the state board shall elect such remaining officers of the board as it may deem necessary.

Compensation.

(e) Each member of the state board of public welfare shall receive fifteen dollars ($15.00) per diem for each day actually spent in the performance of his duties and his actual necessary traveling and other expenses in going to, attending and returning from meetings of the board, and his actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested of him by a majority vote of the board, but in no event shall a member's per diem payments exceed one thousand dollars ($1,000.00) in any one (1) year. No member of the state board shall have any direct financial interest in or profit by any of the operations of the state department of public welfare or any of its agencies.

Per diem and expenses of state board members shall, upon claims being presented according to state law, be paid out of funds appropriated to the state department of public welfare."

Amending clause.

Section 30. Section 71-203, R. C. M. 1947, is amended to read as follows:

State board —powers.

"71-203. **Powers and duties of the state board.** (1) In cooperation with the governor the state board shall select and appoint an administrative officer for the state department of public welfare who shall be known as the

HeinOnline -- 1965 485 1965

state administrator and who shall have such tenure of office, salary and administrative per diem and travel expense as the state board may establish, with the exception that the salary of said state administrator shall not exceed five thousand ($5,000.00) dollars per year. The state administrator shall be selected and appointed with due regard to the education, training and ability necessary in public welfare administration and organization and shall have been a resident of the state of Montana at least five years prior to his appointment.

Duties.

(2) Within six months after the adoption and approval of this act it shall be the duty of the state board to establish and maintain minimum standards of service and personnel and to formulate salary schedules for the classified personnel, based upon training, experience and ability, for employees selected for positions in the state office of the state department and in county departments.

Merit system.

A merit system when practical but not later than one (1) year from and after the effective date of this act shall be established and maintained pertaining to qualifications for appointments, tenure of office, annual merit ratings, releases, promotions, and salary schedules and the state board shall cause examinations to be held from time to time throughout the state for the purpose of establishing an available qualified list in order of merit of persons eligible for appointment. Personnel standards shall conform in so far as possible with the general standards as established or required by the federal social security board."

Amending clause.

Section 31. Section 72-102, R. C. M. 1947, is amended to read as follows:

Oath.

"72-102. **Oath.** Each member of said board, and each person appointed to office by said board, before entering upon the duties of his office, shall take and subscribe the oath specified in section 1, article XIX, of the constitution of the state of Montana, and such oath shall be filed in the office of the secretary of state."

Amending clause.

Section 32. Section 75-303, R. C. M. 1947, is amended to read as follows:

Officers.

"75-303. **Officers.** The board shall elect a chairman and shall also appoint a secretary who may or may not be a member of said board."

HeinOnline -- 1965 486 1965

Section 33. Section 75-1301, R. C. M. 1947, is amended to read as follows: Amending clause.

"75-1301. **Election, qualification, oath.** There shall be chosen by the qualified electors of the state, at the time and place of voting for members of the legislature, a superintendent of public instruction, who shall have attained the age of thirty years at the time of his election, and shall have resided within the state two years next preceding his election, and is the holder of a state certificate of the highest grade, issued in some state, and recognized by the state board of education, or is a graduate of some university, college, or normal school recognized by the state board *of* education as of equal rank with *a unit of* the university of Montana. He shall hold his office at the seat of government for the term of four years from the first Monday in January following his election, and until his successor is elected and qualified. Before entering upon his duties, he shall take the oath of a civil officer." Election, qualification, oath.

Section 34. Section 75-2703, R. C. M. 1947, is amended to read as follows: Amending clause.

"75-2703. **Administration.** (1) The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of this act are hereby vested in a retirement board. Subject to the limitations of this act the retirement board shall from time to time establish rules and regulations for the administration and transaction of the business of the retirement system and shall perform such other functions as are required for the execution of this act. The membership of the retirement board shall consist of five (5) persons as follows: Administration—retirement board.

(a) The superintendent of public instruction.

(b) Two (2) persons from the teaching profession.

(c) Two (2) persons who shall be representatives of the public.

The two (2) members chosen from the teaching profession shall be known as teacher members, and shall be members of the retirement system.

(2) The members of the board of teachers' retirement Appointment.

HeinOnline -- 1965 487 1965

system shall be appointed by the governor within thirty (30) days after this act takes effect and shall serve for terms of four (4) years, provided, however, that those first appointed after this act takes effect other than the superintendent of public instruction shall serve for terms respectively of one (1), two (2), three (3) and four (4) years.

Vacancy.

(3) If a vacancy occurs in the office of a member of said board, the vacancy may be filled by the governor for the unexpired term.

Oath.

(4) Each member of the retirement board created by this act shall take and subscribe the oath prescribed by article XIX, section 1 of the constitution of the state of Montana, and such oath shall be filed in the office of the secretary of state.

Quorum.

(5) A majority of the members of the retirement board shall constitute a quorum for the transaction of any business.

Compensation.

(6) The members of the retirement board shall serve without compensation except that the members thereof, excluding superintendent of public instruction, shall receive a per diem fee of ten dollars ($10.00) each for each day in actual attendance at the meetings of said board or in the execution of their duties as members of said board; provided, however, that in no instance shall any such member of said board receive as said per diem fee, a sum in excess of one hundred dollars ($100.00) in any one (1) year; and the members of said board shall be allowed their actual and necessary traveling expenses while performing their duties as members of said board, which shall be paid quarterly upon proper vouchers from the expense fund hereinafter named.

Officers.

(7) The retirement board shall elect from its membership a chairman, and shall appoint a secretary who may be, but need not be one (1) of its members.

Powers.

(8) The retirement board shall have power to employ and to secure the services of such technical and administrative employees as may be necessary for the transaction of the business of the retirement system. The compensation of all persons engaged by the retirement board shall be fixed by the board and all other expense of the board

HeinOnline -- 1965 488 1965

necessary for the proper operation of the retirement system shall be paid at such rates and in such amounts as the retirement board shall approve.

Duties.

(9) The retirement board shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the system. It shall keep a record of all of its proceedings which shall be open to public inspection. It shall publish biennially on or before the first day of January wherein the legislative assembly shall meet a report showing in detail the fiscal transactions of the retirement board for the two (2) years ending on the preceding thirtieth day of June, the amount of the accumulated cash and securities of the system and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system. The board shall submit said report to the governor and shall furnish copies thereof to the heads of the various departments and to the legislative assembly."

Note: Subsections (10) through (14) of Section 75-2703, R.C.M., 1947, are omitted.

Section 35. Section 77-120, R. C. M. 1947, is amended to read as follows:

Amending clause.

"77-120. **Duties of adjutant-general — salary.** The adjutant-general shall be ex officio chief of staff. He shall hold office until his successor is appointed and qualified. He shall appoint the civilian employees of his department, and may remove any of them in his discretion.

Duties of adjutant-general—salary.

The expenses of the adjutant-general's department, necessary to the military service, shall be audited, allowed, and paid as other military expenditures are audited, allowed, and paid.

Expenses.

1. The adjutant-general shall keep a roster of all active, reserve, and retired officers of the militia of the state, and keep in his office all records and papers required to be kept and filed therein, and shall submit to the governor, during December of each even numbered year, a printed biennial report of the operations and conditions of the organized militia of Montana.

Records.

2. He shall cause the military law, the regulations of the organized militia of Montana, and such other military

Regulations.

HeinOnline -- 1965 489 1965

publications as may be necessary for the military service, to be printed, indexed, and bound at expense of the state, and distributed to the commissioned officers of the organized militia of Montana.

Military property.

3. He shall keep and preserve the books, arms, accoutrements, ammunition, and other military property belonging to the state, not properly issued.

Accounts.

4. He shall keep just and true accounts of all moneys received and disbursed by him.

Commissions.

5. He shall attest all commissions issued to military officers of this state.

Reports.

6. He shall make out and transmit all militia reports, returns, and communications prescribed by acts of Congress or by direction of the secretary of war.

Seal.

7. He shall have a seal, and all copies, orders, records, and papers in his office, duly certified and authenticated under said seal, shall be evidence in all cases in like manner as if the originals were produced. The seal now used in the office of the adjutant-general shall be the seal of his office, and shall be delivered by him to his successor. All orders issued from his office shall be authenticated with said seal.

Regulations.

8. He shall make such regulations pertaining to the preparation of reports and returns, and to the care and preservation of property in possession of the state for military purposes, whether belonging to the state or to the United States, as in his opinion the conditions demand.

Military equipment.

9. He shall attend to the care, preservation, safekeeping, and the repairing of the arms, ordnance, accoutrements, equipment, and all other military property belonging to the state, or issued to the state by the government of the United States for military purposes, and keep accurate accounts thereof. All military property of the state, which after proper inspection shall be found unsuitable for use of the state, shall be disposed of in such manner as the governor shall direct, and the proceeds thereof paid into the military fund of the state.

Issuance of property.

10. He shall issue such military property as the necessity of the service requires, and make purchases for that purpose. No military property shall be issued or loaned

HeinOnline -- 1965 490 1965

except upon an emergency to persons or organizations other than those belonging to the organized militia of Montana, except to such portions of the unorganized militia as may be called out by the governor.

11. He shall keep on file in his office the reports and returns of troops and heads of military departments and all other writings and papers required to be transmitted to and preserved at the general headquarters of the state militia. Reports.

12. The annual salary of the adjutant-general of the state of Montana shall be four thousand two hundred dollars ($4,200.00). Note: Paragraphs (12) and (13), Section 77-120, R.C.M., 1947, repealed in 1959, are restored.

13. The annual salary of the assistant adjutant-general of the state of Montana shall be three thousand six hundred dollars ($3,600.00)."

Section 36. Section 80-1205, R. C. M. 1947, is amended to read as follows: Amending clause.

"80-1205. **Powers and duties of board.** The board has the power and duty, to Powers and duties of board.

(1) Adopt general rules and regulations, not inconsistent with law, for the government of the department and for the government of public institutions. Such rules and regulations may govern and provide for Rules and regulations.

(a) The admission, custody, transfer and release of inmates or residents of public institutions. Provided, however, that no such rules or regulations shall amend, alter, or change the powers and duties of the state board of pardons as contained in Chapter 98 of Title 94 of the Revised Codes of Montana, 1947, as amended.

(b) The acquisition, use, and transfer of materials, supplies, and produce, for and between institutions.

(c) The expenditure and receipt of moneys at public institutions.

(d) Nothing herein shall be construed to modify, cancel, or invalidate any contracts or contractual relationships or affect the right of the board to execute contracts.

(2) Report to the governor before the first day of November of each year and to the legislative assembly before the second Monday of each biennial legislative Report to governor.

HeinOnline -- 1965 491 1965

session. The reports shall fully describe the activities of the department and shall contain recommendations for the passage of any laws necessary for the improvement of public institutions.

Budget requests.

(3) Review and approve all budget requests for public institutions prior to submittal to the director of the budget.

Lands connected with public institutions.

(4) Classify the lands connected with public institutions and determine which are of such character as to be most profitably used for agricultural purposes, taking into consideration the needs of all public institutions for the food products that can be grown or produced on the lands, and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in public institutions.

Other agencies.

(5) Utilize the staff and services of other state agencies and units of the university of Montana, within their respective statutory functions, to carry out the purposes of this act.

Building program.

(6) Develop, in consultation with the administrative heads of public institutions, a systematic building program providing for the projected long range needs of public institutions.

Rehabilitation program.

(7) Encourage the establishment of programs at the local level for the rehabilitation of the physically and mentally disabled."

Amending clause.

Section 37. Section 81-201, R. C. M. 1947, is amended to read as follows:

Commissioner—appointment and qualification.

"81-201. **Appointment of commissioner — manner of qualifying.** The governor, by and with the consent of the senate, shall appoint a commissioner of state lands and investments, who shall be the chief administrative and executive officer under the board in all matters except those pertaining to the state forests, who shall not be a member of the state board of land commissioners and whose term of office shall be four years, or until his successor has been appointed and qualified. Before assuming the duties of his office, the commissioner shall take and subscribe to the constitutional oath of office."

Section 38. Section 81-208, R. C. M. 1947, is amended to read as follows:

HeinOnline -- 1965 492 1965

"81-208. **Oath of office.** The assistant commissioner, the chief field agent, and the cashier shall each take and subscribe to the constitutional oath of office before entering upon his duties." Oath of office.

Section 39. Section 81-1403, R. C. M. 1947, is amended to read as follows: Amending clause.

"81-1403. **State forester—appointment—compensation —term—assistants.** The governor, by and with the advice and consent of the senate, shall appoint a state forester to have general charge of all the state's forests. He shall be technically trained and experienced in forestry and a graduate of an accredited forestry school, and his salary shall not be more than ten thousand eighty dollars ($10,080) per annum, at the discretion of the state land board, together with the actual, necessary expenses while engaged in outside work in connection with his office and its duties as defined by law and the regulations of the state board of land commissioners and the state board of forestry. Such expenses shall be payable monthly from the state's general fund and/or the appropriations made to those other boards to which he, by law, has been designated secretary or executive officer. His term of office shall be for four (4) years. With the consent and approval of the state board of land commissioners the state forester shall appoint and fix the salaries and expenses of such office help, district foresters, fire wardens, cruisers, scalers, slash disposal men, and such other trained and qualified assistants as may be necessary in the administration of the state forests and the forested lands within the state. Provided, however, that consent and approval of such appointments by any board shall be restricted to those appointments made for the purposes of that board as defined by law." State forester—appointment. Compensation. Term.

Section 40. Section 81-2010, R. C. M. 1947, is amended to read as follows: Amending clause.

"81-2010. **Same — oath.** Before entering upon the duties of his office, the state engineer shall take the oath of office." Oath.

Section 41. Section 82-107, R. C. M. 1947, is amended to read as follows: Amending clause.

"82-107. **Controller's oath of office.** The controller shall take the constitutional oath of office." Oath.

HeinOnline -- 1965 493 1965

Amending clause.

Section 42. Section 82-1230, R. C. M. 1947, is amended to read as follows:

Oath—filing.

"82-1230. **Oath of marshal and deputy.** The state fire marshal shall file the oath of office required of all public officers; and, provided, further, that any special deputy fire marshal appointed under the provisions of this act shall also file the oath of office required of all public officers."

Amending clause.

Section 43. Section 89-118, R. C. M. 1947, is amended to read as follows:

Powers and duties of board.

"89-118. **Powers and duties of board—actions at law.**

(1) The board shall keep full and complete accounts concerning all matters and things relating to the works and annually shall prepare balance sheets and income and profit and loss statements showing the financial condition of each project, and file copies thereof with the secretary of state. All books and papers pertaining to all matters provided for in this act shall at all reasonable times be open to the inspection of any party interested or any citizen of the state. Except as otherwise provided in this act, the board shall have full charge and control of the construction, operation and maintenance of the works and the collection of all rates, charges and revenues of whatsoever character therefrom. The board shall proceed immediately with the construction of the works upon funds being made available therefor and shall prosecute such works to completion as rapidly as possible. The board shall have power to sell, lease and otherwise dispose of all waters which may be impounded under the provisions of this act, and such water may be sold for the purpose of irrigation, development of power, watering of stock or any other purpose. To the extent that it may be necessary to carry out the provisions of this act, and subject to a compliance with the other provisions of this act, the board shall have full control of all the water of the state not under the exclusive control of the United States and not vested in private ownership, and it shall be its duty to take such steps as may be necessary to appropriate and conserve the same for the use of the people.

Actions at law.

(2) The board shall have power to institute in any of the courts of this state, or in any other state, or in any of the federal courts of this state or any other state, any

HeinOnline -- 1965 494 1965

actions, suits, and special proceedings necessary to enable it to acquire, own, and hold title to lands for dam sites, reservoir sites, water rights, rights of way for diversion and distributing canals, and lateral ditches, and other means of distribution of water, and may also in all said courts institute, maintain, and prosecute to final determination any and all actions, suits and special proceedings necessary to have the water rights adjudicated upon any stream or source of water supply from which is derived the water for such reservoir, diversion and distributing canals, lateral ditches and other means of distribution of the water; and said board may join any and all owners of waters heretofore appropriated by any person, association or corporation from any of the streams of the state of Montana, so that adjudication may be had of all surplus water upon all the streams and sources of water supply of any project so constructed by said board. All costs and expenses of such actions, suits or special proceedings shall be paid by said board out of funds provided under the authority of this act.

Amending clause.

Section 44. Section 90-122, R. C. M. 1947, is amended to read as follows:

Ex officio state sealer of weights and measures.

"90-122. **Commissioner of agriculture ex officio sealer of weights and measures—deputies.** The commissioner of agriculture is hereby declared to be and is the ex officio state sealer of weights and measures. He shall appoint as many deputy sealers of weights and measures as he may deem necessary, subject to existing laws."

Amending clause.

Section 45. Section 5-602, R. C. M. 1947, is amended to read as follows:

State superintendent of banks—term—duty.

"5-602. **State superintendent of banks.** The term of office of the superintendent of banks shall be four (4) years from and after his appointment, and it shall be his duty to execute all laws in relation to banks, acting personally or through his examiners, regular or special."

Amending clause.

Section 46. Section 26-102, R. C. M. 1947, is amended to read as follows:

Commission members—appointment.

"26-102. **Districts for appointment of members of commission.** (1) The state of Montana is hereby divided into the following districts and the counties composing each district are as follows:

HeinOnline -- 1965 495 1965

Districts—counties.

District No. 1, Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark.

District No. 2. Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park and Sweetgrass.

District No. 3. Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher and Wheatland.

District No. 4. Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, Wibaux.

District No. 5. Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, Prairie.

Appointment—qualifications.

(2) One member of the commission shall be appointed from each of the foregoing districts by the governor of the state of Montana. The selection of said members shall be made without regard to political affiliation but for the sole welfare of the fish and game and wildlife of the state. No person shall be appointed a member of said commission unless he shall be informed or interested and experienced in the subject of wildlife, fish and game, and the requirements for the conservation and protection of fish, game, and game birds and animals. The first members of the commission created hereby shall be appointed by the governor within thirty (30) days after the passage and approval of this act.

Term of office.

(3) The first fish and game commissioners appointed in districts 1, and 5 shall each hold office for a term of four (4) years; the first commissioners appointed in districts 2 and 4 shall each hold office for a term of three (3) years; the first fish and game commissioner appointed in district 3 shall hold office for a term of two (2) years, and thereafter the term of office of each fish and game commissioner shall be for four (4) years.

Removal from office.

(4) The governor may remove any fish and game commissioner for inefficiency, neglect of duty, or misconduct in office, or for cause by delivering to him a copy of the charges and affording him an opportunity of being publicly heard in person or by counsel in his own defense,

HeinOnline -- 1965 496 1965

upon not less than fifteen (15) days' notice in writing accompanied by a statement of the charges held against him.

(5) Vacancies occurring in the fish and game commission shall be filled by the governor in the same manner and from the districts in which such vacancies occur. Vacancies.

Section 47. Section 81-2013, R. C. M. 1947, is amended to read as follows: Amending clause.

"81-2013. **Assistant secretary.** Said Carey land act board may, if in its judgment necessary, have and appoint an assistant secretary, who shall keep a proper record of its transactions, keep its accounts, have charge of funds paid to it, of its correspondence and documents, countersign papers and instruments, and perform such duties as the board may require. He shall have authority to administer oaths whenever necessary in the performance of his duties as assistant secretary." Assistant secretary —duties —authority.

Section 48. Section 82-601, R. C. M. 1947, is amended to read as follows: Amending clause.

"82-601. **Deputy state officers.** The state treasurer, state auditor, clerk of the supreme court, and the state superintendent of public instruction shall each appoint a deputy, who, in the absence of the principal, or in the case of vacancy in his office, shall perform all the duties of office until such disability be removed or vacancy be filled. Deputy state officers— appointment —duties.

The secretary of state shall appoint a chief deputy and a deputy, who in the absence of the principal shall perform all the duties of office. In the case of a vacancy in the office of secretary of state, the chief deputy shall perform all the duties of the office until such disability be removed or vacancy filled.

Such deputy or deputies shall subscribe, take and file the oath of office provided by law for other state officers before entering upon the performance of his duties."

Section 49. Section 82-3105, R. C. M. 1947, is amended to read as follows: Amending clause.

"82-3105. **Superintendent of public instruction—delegating powers and duties.** The state superintendent of public instruction may delegate to any employees of the Superintendent of public instruction —delegation of powers and duties.

HeinOnline -- 1965 497 1965

state agency for surplus property such power and authority as he deems reasonable and proper for the effective administration of this act."

Amending clause.

Section 50. Subsection 3, Section 89-103, R. C. M. 1947, is amended to read as follows:

Seal—rules and regulations—legal advisers.

"(3) The board shall have and adopt a seal bearing its name, which seal shall be affixed to such records and other instruments as it may direct, and all courts shall take judicial notice of said seal. It is authorized to adopt from time to time, as necessary or expedient, suitable rules and regulations for the administration of this act. The attorney general shall act as legal adviser for the board and shall perform such legal services as the board may request; he shall receive his actual and necessary expenses when engaged in travel in the performance of such services. With his consent the board may employ additional legal counsel, and the board may also appoint such technical and other assistants and employees as may be necessary to enable it to perform its duties and carry out the purposes of this act, and may fix their compensation."

Repealing clause.

Section 51. Sections 3-407, 6-101, 6-102, 6-103, 6-104, 46-702, 66-810, 77-1004, 79-809, 82-404, 82-507, 82-1013, 82-1907, 82-2213, 92-106 and 92-107, R. C. M. 1947, are repealed.

Approved March 4, 1965.

CHAPTER 178

An Act Providing for the Reporting of Physical Abuse or Wilful Neglect of Children; Providing for Action to be Taken by the County Attorney in Cases Where Such Reports Are Made; Providing Immunity From Liability for Those Persons Participating in Making Such Reports; and Providing for the Admissibility of Such Reports Into Evidence in Proceedings Which Result From the Making of Such Reports.

Be it enacted by the Legislative Assembly of the State of Montana:

Provide for protection of children subject to physical injury or wilful neglect.

Section 1. **Declaration of policy.** It is the policy of this state to provide for the protection of children who have had physical injury or wilful neglect inflicted upon

HeinOnline -- 1965 498 1965

them and who, in the absence of appropriate reports concerning their condition and circumstances, may be further threatened by the conduct of those responsible for their care and protection.

Reports—county attorney.

Section 2. **Reports.** Any licensed physician and surgeon, resident or intern, who examines, attends or treats a child under the age of eighteen (18) years, or any registered nurse, practical nurse, any visiting nurse, any school teacher, or any social worker acting in his or her official capacity, having reason to believe that such child has had serious injury or injuries inflicted upon him or her as a result of abuse or neglect, or has been wilfully neglected, shall report the matter promptly to the county attorney in the county where such examination is made or such child is located; provided that when attendance with respect to a child is pursuant to the performance of services as a member of the staff of a hospital or similar institution, such staff member shall immediately notify the superintendent, manager, or other person in charge of the institution who shall make the report forthwith. If the report is not made in writing in the first instance, it shall be reduced to writing by the maker thereof as soon as it conveniently may be after it is initially made by telephone or otherwise, and it shall contain the names and addresses of the child and his or her parents or other persons responsible for his or her care; to the extent known, the child's age, the nature and extent of the child's injuries (including any evidence of previous injuries), and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the wilful neglect and the identity of the person or persons responsible therefor, and the facts which led the person reporting to believe that the child has suffered injury or injuries, or wilful neglect, within the meaning of this act.

Action on reporting.

Section 3. **Action on reporting.** If from said report it shall appear that the child suffered such injury or injuries or wilful neglect in the county in which the examination was made, the county attorney receiving the report shall immediately cause to be made the investigation hereinbelow referred to. If from such report it shall appear that the child suffered such injury or injuries or wilful neglect in a county other than that in which the examination was made, the county attorney

HeinOnline -- 1965 499 1965

receiving the report shall forthwith transmit such report to the county attorney of the county in which it appears such injury or injuries or wilful neglect were suffered, and the county attorney of the latter county shall immediately cause to be made the investigation herein referred to. In making such investigation of the report, the county attorney may utilize the services of the county welfare department and all other departments of his county. The investigation shall be made into the home of the child involved and into the circumstances surrounding the injury of the child, and into all other matters which, in the discretion of the county attorney shall be relevant and material to said investigation.

Immunity from liability.

Section 4. **Immunity from liability.** Any one participating in the making of a report pursuant to the provisions of this act or participating in a judicial proceedings resulting therefrom shall be presumed to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, unless the person acted in bad faith or with malicious purpose.

Admissibility of evidence.

Section 5. **Admissibility of evidence.** In any proceeding resulting from a report made pursuant to the provisions of this act or in any proceeding where such a report or any contents thereof are sought to be introduced into evidence, such report or contents thereof or any other fact or facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege or similar privilege or rule against disclosure.

Approved March 4, 1965.

CHAPTER 179

An Act to Amend Section 16-2818, R. C. M. 1947, to Provide for Payment of Costs of Medication, Medical Services and Hospitalization Incurred by Prisoners.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 16-2818, R. C. M. 1947, is amended to read as follows:

HeinOnline -- 1965 500 1965

"16-2818. **Sheriff to receive all persons duly committed.** The sheriff must receive all persons committed to jail by competent authority, and provide them with necessary food, clothing, and bedding, for which he shall be allowed a reasonable compensation, to be determined by the board of county commissioners, and, except as provided in the next section, to be paid out of the county treasury. *If in the opinion of the sheriff any prisoner requires medication, medical services or hospitalization, the expense of the same shall be borne by the agency or authority at whose instance the prisoner is detained when the agency or authority is not the county wherein the prisoner is being detained.*"

Sheriff to receive all persons duly committed—medical service.

Approved March 4, 1965.

CHAPTER 180

An Act Concerning Per Diem and Reimbursement for Expenses of Members of the Legislative Assembly; Amending Section 43-310, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 43-310, R. C. M. 1947, is amended to read as follows:

Amending clause.

"43-310. *(1)* Members of the legislative assembly hereafter elected shall receive twenty dollars ($20.00) per day, payable weekly, during the session of the legislative assembly, and eight cents (8¢) per mile for each mile of travel to and from their residences and the place of holding the session, by the nearest traveled route.

Compensation.

(2) Members shall also receive fifteen dollars ($15.00) per day, payable weekly during the session of the legislative assembly, as reimbursement for expenses incurred in attending the session."

Expense reimbursement.

Approved March 4, 1965.

CHAPTER 181

An Act Specifying Conditions Under Which Forfeiture of Bail or Deposit Instead of Bail Shall be Discharged; Amending Section 94-8704, R. C. M. 1947.

HeinOnline -- 1965 501 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 94-8704, R. C. M. 1947, is amended to read as follows:

Forfeit of bail or deposit—notice of bondsman or surety.

"94-8704. *(1) Before a bail undertaken or deposit is forfeited, it shall be shown that the bondsman or surety was mailed notice seventy-two (72) hours before the time of required appearance of the defendant unless the time of required appearance was within seventy-two (72) hours from the time of arrest or unless a specific time of appearance was stated on the face of the bond, citation or summons.*

Forfeit of bail —when.

(2) If, without sufficient excuse, the defendant neglects to appear for arraignment or for trial or judgment, or upon any other occasion when his presence in court may be lawfully required, or to surrender himself in execution of the judgment, the court must direct the fact to be entered upon its minutes, and the undertaking of bail, or the money deposited instead of bail, as the case may be, is thereupon forfeited. But if at any time before the final adjournment of the court, the defendant or his bail appear and satisfactorily excuse his neglect, the court may direct the forfeiture of the undertaking, or the deposit to be discharged upon such terms as may be just.

Approved March 4, 1965.

CHAPTER 182

An Act Relating to Eminent Domain Proceedings; Amending Section 93-9913, R. C. M. 1947, to Clarify the Interest Payable to a Property Owner; Repealing All Acts or Parts of Acts in Conflict Herewith; and Providing a Severability Clause and an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 93-9913, R. C. M. 1947, as amended, be and the same is hereby amended to read as follows:

Date of assessment of compensation.

"93-9913. (9945) **The date with respect to which compensation shall be assessed.** For the purpose of

HeinOnline -- 1965 502 1965

assessing compensation the right thereto shall be deemed to have accrued at the date of the service of the summons, and its actual value as of that date shall be the measure of compensation for all property to be actually taken, and the basis of depreciation in value of property not actually taken, but injuriously affected. If an order be made letting the plaintiff into possession, as provided in section 93-9920, the *full* amount *finally* awarded shall draw lawful interest from the date on which the property owner surrenders possession of the property in accordance with the terms of such order to the *earlier of the following dates:*

Interest.

(a) The date on which the right to appeal to the Montana supreme court expires, or

(b) The date on which the property owner withdraws from court the full amount finally awarded.

If the property owner withdraws from court a fraction of the amount finally awarded, interest on such fraction shall cease on the date it is withdrawn but interest on the remainder of the amount finally awarded shall continue to the earlier of the aforesaid dates defined in (a) and (b) of this section. None of the amount finally awarded shall draw interest after the date on which the right to appeal to the Montana supreme court expires. No improvements put upon the property, subsequent to the date of the service of summons, shall be included in the assessment of compensation or depreciation in value, nor shall the same be used as the basis of computing such compensation or depreciation."

Interest limitation.

Improvements.

Section 2. If any section, paragraph, sentence, clause or provision of this act shall for any reason be held invalid or unenforceable, the invalidity or unenforceability thereof shall not affect any of the remaining sections, paragraphs, sentences, clauses or provisions of this act.

Severability clause.

Section 3. All acts, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any act or part thereof, heretofore repealed.

Repealing clause.

Section 4. This act shall be in full force and effect immediately upon the date of its passage and approval.

Effective immediately.

Approved March 4, 1965.

HeinOnline -- 1965 503 1965

CHAPTER 183

An Act to Amend Section 92-902, Revised Codes of Montana, 1947, Relating to the Minimum Assessment to be Paid to the Industrial Accident Board at the Time of Filing of Proof of Solvency Under the Workmen's Compensation Act of Montana, Plan Number One, Providing for a Minimum Assessment in the Amount of Seventy-Five (75) Dollars Per Year; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 92-902 of the Revised Codes of Montana, 1947, be amended to read as follows:

Proof of solvency of employer—Plan No. 1.

"92-902. (2971) **Proof of solvency of employer electing plan No. 1 to be filed.** Every such employer now or hereafter engaged in the state of Montana, in the industries, trades, works, occupations, or employments herein mentioned, and who shall have elected to be bound by such compensation plan No. 1, shall file such proof of his solvency within the time and in such form as may be prescribed by the rules or orders of the board.

Assessment.

The board shall levy an assessment in the amount of not to exceed two hundredths of one percent of the annual payroll of such employer in Montana, for the preceding fiscal year, which assessment shall be paid to the board by said employer at the time of filing of proof of solvency.

Not less than $75.00.

No assessment shall be in an amount less than *seventy-five dollars ($75.00)*.

Estimated payroll.

If such employer had no payroll in Montana for the entire preceding fiscal year, the assessment shall be based on the estimated payroll for the year in which election is made.

The treasurer of the board shall pay the amounts so collected into the state treasury."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1965.

HeinOnline -- 1965 504 1965

CHAPTER 184

An Act Making It Unlawful to Damage, Deface or Remove Any Sign, Signal or Marker Erected on the Right of Way of Any Secondary, State or Interstate Highway; Requiring the State Highway Commission to Post Notices Hereof; Providing for a Penalty, Reward and a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Unlawful to maliciously injure, deface, damage or remove highway signs—penalty.

Section 1. Every person who maliciously injures, defaces, damages or removes any sign, signal or marker, either temporarily or permanently erected on the right of way of any secondary, state or interstate highway for warning, instruction or information of the public, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of two hundred fifty dollars ($250) or by imprisonment in the county jail for a period not exceeding sixty (60) days, or both such fine and imprisonment in the discretion of the court. This act applies to secondary, state or interstate highways which are completed and to secondary, state or interstate highways which are under construction or repair.

Reward.

Section 2. Upon conviction under the provisions of this act, any person who furnishes information to law enforcement officers leading to the arrest and conviction of the accused person shall be paid a reward from the state highway account in the earmarked revenue fund in the sum of one hundred dollars ($100).

Notices of act.

Section 3. It is the duty of the state highway commission to post notices of this act, and the penalties provided for, at locations to be designated by the state highway commission.

Repealing clause.

Section 4. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1965.

CHAPTER 185

An Act Making it Unlawful to Obtain or Attempt to Obtain Goods, Property or Services by False or Fraud-

HeinOnline -- 1965 505 1965

ulent Use of Credit Cards or Other False or Fraudulent Means, and Providing Penalties Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Unlawful to knowingly obtain or attempt to obtain credit by invalid credit card or unauthorized use of credit.

Section 1. It shall be unlawful for any person knowingly to obtain or attempt to obtain credit, or to purchase or attempt to purchase any goods, property or services, by the use of any false, fictitious, counterfeit or expired credit card, telephone number, credit number or other credit device, or by the use of any credit card, telephone number, credit number or other credit device of another without the authority of the person to whom such card, number or device was issued, or by the use of any credit card, telephone number, credit number or other credit device in any case where such card, number or device has been revoked and notice of revocation has been given to the person to whom issued.

Unlawful to obtain or attempt to obtain telephone or telegraph service by fraud.

Section 2. It shall be unlawful for any person to obtain or attempt to obtain, by the use of any fraudulent scheme, device means or method, telephone or telegraph service or the transmission of a message, signal or other communication by telephone or telegraph, or over telephone or telegraph facilities with intent to avoid payment of charges therefor.

Unlawful to steal credit card from person to whom issued.

Section 3. It shall be unlawful for any person to steal, take or remove a credit card or credit device from the person or possession of the person to whom issued, or, to retain or secrete a credit card or credit device without the consent of the person to whom issued, with the intent of using, delivering, circulating or selling or causing said card or device to be used, delivered, circulated or sold without the consent of the person to whom issued.

Unlawful to use an altered credit device.

Section 4. It shall be unlawful for any person to have in his possession or under his control or to receive from another person any forged, altered, counterfeited, fictitious or stolen credit card or credit device with the intent to use, deliver, circulate or sell the same, or to permit or cause to procure the same to be used, delivered, circulated or sold, knowing the same to be forged, altered, counterfeited, fictitious or stolen.

"Notice."

Section 5. The word "notice" as used in section 1 of this act shall be construed to include either notice given

HeinOnline -- 1965 506 1965

in person or notice given in writing to the person to whom the number, card or device was issued.

Presentation of invalid credit device is evidence of knowledge.

Section 6. The presentation or use of a false, fictitious, counterfeit, expired, unauthorized or revoked credit card, telephone number, credit number or other credit device for the purpose of obtaining credit or the privilege of making a deferred payment for the article or service purchased shall be evidence of knowledge that the said credit device is false, fictitious, counterfeit, expired, or its use is unauthorized or revoked.

Violation—penalty.

Section 7. Any person who violates any provision of sections 1, 2, 3 or 4 of this act shall be guilty of a misdemeanor, punishable as provided by law therefor; provided, however, that if the value of the goods or services obtained through a violation of the provisions of section 1 or 2 of this act amounts to the sum of fifty dollars ($50) or more, or if the value of the goods or services obtained through a series of violations of section 1 or 2 of this act committed within a period not exceeding six (6) months amounts in the aggregate to the sum of $50.00 or more, any such violation or violations shall constitute a felony and shall be punishable as provided by law therefor.

Jurisdictional clause.

Section 8. Sections 1 and 2 of this act shall apply when the telephone or telegraph service or message, signal or other communications by telephone or telegraph or over telephone or telegraph facilities either originates or terminates, or both originates and terminates in this state.

Approved March 4, 1965.

CHAPTER 186

An Act to Amend Chapter 24 of Title 66 of the Revised Codes of Montana, 1947, by Amending Section 66-2402 Relating to Licensing of Plumbers by Adding Thereto Requirements for Licensing Journeyman Plumbers and Master Plumbers; and by Amending Section 66-2403 Relating to the Membership of the Board of Plumbing Examiners by Adding Two Members Thereto and Providing for Their Appointment by the Governor; and

HeinOnline -- 1965 507 1965

by Amending Section 66-2418 by Adding Thereto Provisions Establishing a Fixture Fee to be Used for the Inspection and Enforcement of the State Plumbing Code and Authorizing a State Plumbing Inspector, and Providing for a Penalty for Failure to Pay the Fixture Fee Established.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 66-2402, Revised Codes of Montana, 1947, be amended to read as follows:

Application for state license.

"66-2402. **Application for state license.** Any such person desiring to work at the business of plumbing in any such city or town shall file his application for a state license with the secretary of the board of plumbing examiners of the state of Montana, and shall at such time and place as may be designated by the board of examiners of plumbers of the state of Montana, be examined as to his qualifications for working in such business.

Requirements.

Journeyman plumbers.

"The following requirements shall be met by applicants for a state license: (1) for journeyman plumbers:

"(a) A specific record of five years experience in the field of plumbing, of a character satisfactory to the board. This experience requirement may be fulfilled by working five years in any major phase of the plumbing business, or by completing an apprenticeship program meeting the standards set by the Montana state apprenticeship council or the United States department of labor, bureau of apprenticeship, or credit towards this experience requirement may be given for time spent attending trade or other schools specializing in training of value in the plumbing business and approved by the board.

"(b) Satisfactory completion of an examination conducted by the board testing the applicant's general knowledge of subjects necessary to plumbing, testing his knowledge of techniques and methods employed in the plumbing business, and establishing by practical demonstration his competence in the special skills required in plumbing.

Master plumbers.

"(2) For master plumbers:

"(a) Evidence of five years experience as a journeyman plumber.

HeinOnline -- 1965 508 1965

"(b) Evidence of three years experience in supervisory capacities in the plumbing business.

"(c) Satisfactory completion of an examination for master plumbers testing his knowledge of the plumbing business and demonstrating his familiarity with business practices normally encountered in the plumbing business."

Section 2. That section 66-2403, Revised Codes of Montana, 1947, be amended to read as follows:

Amending clause.

"66-2403. **Board of plumbing examiners—appointment—terms—compensation—examination of applicants.** Within sixty days after this act becomes a law, the governor of the state of Montana shall appoint a board of plumbing examiners consisting of *seven* members—*two* master plumbers, *two* journeyman plumbers, who shall be of legal age, residents of Montana for more than one year and shall have been at least five out of the last eight years, immediately preceding their appointment, duly licensed master or journeyman plumbers, one registered professional engineer, qualified in mechanical engineering, one member to be appointed at large as representative of the public who is not engaged in the business of installing or selling plumbing equipment, and the appointed representative of the Montana state board of health, who shall be a sanitary engineer and who shall be the secretary of the state board of plumbing examiners. The office of the engineer of the state board of health shall act as the office through which all business of the board shall be transacted. The appointed members of this board of plumbing examiners shall serve for a period of four years from the date of their appointment, providing however, the first board of plumbing examiners shall serve as follows: one member for one year, one member for two years, one member for three years and one member for four years and the governor in making the appointment shall designate the time that each member constituting the first board shall serve. Thereafter, upon the expiration of the term of office of each member of the board of plumbing examiners or when a vacancy occurs, the governor shall make a new appointment for the unexpired term or for a period of four years. The journeyman plumber whose term would next expire after passage and approval of this act is hereby removed from said board and in his place and stead shall be

Board of plumbing examiners—appointment—terms—compensation—examination of applicants.

HeinOnline -- 1965 509 1965

installed said registered professional engineer, qualified in mechanical engineering. The members of the said board shall be entitled to a compensation of twenty dollars per diem, each, for each and every day while actually engaged in the work of the board, the compensation, however, to be paid from the revenue realized under the provisions of this act, but not otherwise. Any applicant for a state license to work at the business of plumbing in this state shall be examined as to his qualifications by the board of examiners of plumbers for the state of Montana. It shall be the duty of the said board to examine each applicant for a state license as provided for in this act, to determine his qualifications and fitness for carrying on the business of a master plumber or journeyman plumber, and if the applicant successfully passes the examination as prescribed by the said board, then a state license shall be issued to such applicant for such license, authorizing him to engage in the business and occupation of a master plumber or journeyman plumber, as the case may be, which license, when issued, shall authorize the holder thereof to carry on the business of a master plumber or a journeyman plumber, as the case may be, in any city or town in the state of Montana.

Additional members of board.

"The additional members of the board shall be appointed by the governor to serve terms commencing July 1, 1965. The additional master plumber's term shall be coextensive with the present journeyman plumber's term, and the additional journeyman plumber's term shall be coextensive with the present master plumber's term, and thereafter their respective terms shall be for four years."

Amending clause.

Section 3. That section 66-2418, Revised Codes of Montana, 1947, be amended to read as follows:

Expenses—defraying.

"66-2418. **Expenses—defraying.** Any moneys paid for state license fees for state plumber licenses, as provided for in Title 66, chapter 24 [66-2401 to 66-2411] of the laws of the state of Montana, may be applied in defraying the expense of the board in carrying out the provisions of this act.

Fixture fee.

"For the purpose of providing adequate inspection and enforcement of the state plumbing code provided for in this chapter there shall be collected a fixture fee of fifty cents per fixture for every fixture installed after July 1, 1965. For this purpose, a fixture shall mean any device connected

HeinOnline -- 1965 510 1965

by a water connection to a water system or by a trap to a sewer line. This fixture fee shall be payable before installation by the licensed master plumber responsible for installation of the fixture. It shall be payable to the state plumbing board under regulations prescribed by the board for the purposes set forth herein, and the board may assign the inspection and enforcement of the state plumbing code and collection of such fees to a state plumbing inspector, and such deputies as may be reasonably necessary to accomplish adequate inspection, enforcement and collection. Installation of fixtures as defined herein by a licensed master plumber without payment of the fee herein provided shall subject such master plumber to a fine of $100 for each offense or to forfeiture of his bond under section 66-2405."

Approved March 4, 1965.

CHAPTER 187

An Act to Provide a Charge of Fifty Cents (50¢) Per Page for Copies of Income Tax Returns or Corporation License Tax Returns and a Charge of One Dollar ($1) for Issuance of a Certificate of Good Standing.

Be it enacted by the Legislative Assembly of the State of Montana:

Certified copies of returns filed for corporation license tax—fee.

Section 1. Certified copies of returns filed for corporation license tax under section 84-1504, R. C. M. 1947, and certified copies of returns filed for income tax under section 84-4919, R. C. M. 1947, may be furnished by the board of equalization to the taxpayer or his duly authorized representative upon payment of fifty cents (50¢) for each page.

Certificate of tax paid—fee.

Section 2. Upon request of a corporation and upon the payment of one dollar ($1) the board of equalization may furnish to it a certificate to the effect that all taxes have been paid, that a return has been filed and that all information has been supplied as required by the provisions of the corporation license tax act.

Disposition of moneys collected.

Section 3. All moneys collected under this act shall be required to reimburse the state board of equalization for costs involved in the preparation of the copies and

HeinOnline -- 1965 511 1965

certificates. All such moneys collected shall go into the general fund of the state of Montana.

Returns included.

Section 4. The provisions of this act shall apply to all returns on file and all returns to be filed hereafter.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 6. This act is effective on its passage and approval.

Approved March 4, 1965.

CHAPTER 188

An Act to Amend Section 82-1519, R. C. M. 1947, by Changing the Provision Pertaining to the Salary of the Chairman of the State Board of Hail Insurance; and Containing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 82-1519, R. C. M. 1947, is amended to read as follows:

Hail insurance—performance of duties by public officers—compensation.

"82-1519. It shall be the duty of all public officers to perform the duties relative to hail insurance under this act, without other compensation than that allowed by law. The chairman of the state board of hail insurance shall receive a salary not in excess of *six hundred dollars ($600)* per month and all appointed officers and employees under this act shall be allowed the per diem and mileage allowed state employees. The compensation of all appointed officers and employees of the board shall be fixed by the state board of hail insurance.

Report by chairman.

The chairman of the state board of hail insurance shall each year submit a full financial report of the operations of the department to the governor of the state."

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved March 4, 1965.

CHAPTER 189

An Act Amending Section 11-3810, Revised Codes of Montana, 1947, Providing for City-County Planning

HeinOnline -- 1965 512 1965

Boards, the Members and Terms of Office Thereof; Providing for Two (2) Official and Two (2) Citizen Members to be Appointed by the Board of County Commissioners, and Two (2) Official and Two (2) Citizen Members to be Appointed by the City Council; Providing for the Selection of One Member by the Appointed Officer and Citizen Members With the Consent and Approval of the Board of County Commissioners and the City Council; Providing for Permissive Residence Requirements; Providing for the Terms of Office of Both Official and Citizen Members; and Providing for the Repeal of All Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 11-3810, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

City-county planning boards—members—term of office.

"11-3810. **City-county planning boards — members — term of officer members** *and citizen members.* 1. A city-county planning board shall consist of not less than nine (9) members to be appointed as follows:

a. Two (2) official members to be appointed by the board of county commissioners who may in the discretion of the board of county commissioners be employed by or hold public office in the county.

b. Two (2) official members to be appointed by the city council who may in the discretion of the city council be employed by or hold public office in the city.

c. Two (2) citizen members to be appointed by the mayor of the city.

d. *Two (2)* citizen members to be appointed by the board of county commissioners. The *two (2)* members *may* reside outside the city limits but within the jurisdictional area of the planning board.

e. The ninth member shall be selected by the eight (8) officers and citizen members hereinabove provided for with the consent and approval of the board of county commissioners and the city council.

Terms of office—officer of governmental unit.

2. The terms of the members who are officers of any governmental unit represented on the board shall be

HeinOnline -- 1965 513 1965

co-extensive with their respective terms of office to which they have been elected or appointed; the terms of the other members shall be two (2) years, except that the terms of the first members appointed shall be fixed by agreement and rule of the governing bodies represented on the board for one (1) or two (2) years in order that a minimum number of terms shall expire in any year."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1965.

CHAPTER 190

An Act to Authorize Duly Constituted City-County Planning Board to Conduct Specific Planning Projects Outside of the Jurisdictional Area of Said Planning Board, if Requested by the Board of County Commissioners, and to Construe Said Power Broadly so as to Enable the County to Qualify Under the Provisions of and Regulations Governing Any Planning Assistance Program Administered by any Agency of the United States of America or the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Power of city-county planning board to conduct specific planning projects.

Section 1. Any city-county planning board organized pursuant to the provisions of title 11, chapter 38, R. C. M. 1947, is hereby empowered, if requested by the board of county commissioners, to conduct specific planning projects within the county, and outside of the jurisdictional area of said city-county planning board as defined in section 11-3830, R. C. M. 1947. Such authority to conduct specific planning projects outside of the jurisdictional area of the city-county planning board upon request of the board of county commissioners shall be broadly construed so as to enable the county to qualify under the provisions of and regulations governing any planning assistance program administered by any agency of the United States of America or the state of Montana.

Approved March 4, 1965.

HeinOnline -- 1965 514 1965

CHAPTER 191

An Act to Amend Section 66-2209 of the Revised Codes of Montana of 1947, as Amended by Chapter 90 of the Laws of 1955, Relating to the Definition of Veterinary Medicine; by Including in Such Definition the Performance of Procedure for Diagnosis of Pregnacy, Sterility or Infertility Upon Livestock for Remuneration.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 66-2209 of the Revised Codes of Montana of 1947, as amended by section 7 of chapter 90 of the laws of 1955, is amended to read as follows:

Veterinary medicine defined.

"66-2209. (3225) **Veterinary medicine defined.** Any person shall be deemed in the practice of veterinary medicine when he does any of the following:

"(a) Represents himself as or is engaged in the practice of veterinary medicine in any of its branches either directly or indirectly.

"(b) Uses any words, titles, or letters in such connection or upon any display or advertisement or under any circumstances so as to induce the belief the person using them is engaged in the practice of veterinary medicine. Such use shall be prima-facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine in any of its branches.

"(c) Diagnoses, prescribes or administers any drug, medicine, appliance, application, or treatment of whatever nature, or performs a surgical operation or manipulation, for the prevention, cure, or relief of a pain, deformity, wound, fracture, or bodily injury or physical condition or disease of animals.

"(d) Instructs, demonstrates or solicits, by any notice, sign, or other indication, with contract either express or implied, or otherwise, with or without the necessary instruments for administration of biologics or medicines or animal disease cures for the prevention and treatment of disease of animals and any and all remedies for the treatment of internal parasites in animals.

"(e) Performs any manual or laboratory procedure for the diagnosis of pregnancy, sterility or infertility upon livestock for remuneration or hire.

HeinOnline -- 1965 515 1965

Unlicensed practice forbidden.

"No person shall practice veterinary medicine or veterinary surgery, or farriery, in the state of Montana unless licensed by the state board of veterinary medical examiners of the state of Montana, and registered as required by this chapter; nor shall any person practice veterinary medicine, surgery, or farriery, whose authority to practice is suspended or revoked by said board."

Exclusions.

Section 2. Nothing in this act shall in any way be construed to prohibit the pregnancy testing by any person of his own farm animals or by his employees regularly employed in the conduct of his business, or by other persons whose services are rendered gratuitously.

Saving clause.

Section 3. Nothing herein contained shall be construed as modifying, amending, altering, or repealing any part of section 66-2211 of the R. C. M. of 1947.

Approved March 4, 1965.

CHAPTER 192

An Act Allowing Cities and Towns to Tax Certain Motor Vehicle Bodies; and Amending Section 11-918, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-918, R. C. M. 1947, is amended to read as follows:

Power of city or town council.

"11-918. The city or town council has power: To license, tax, and regulate auctioneers, peddlers, pawnbrokers, second-hand and junk shops*: motor vehicles and motor vehicle bodies, except those on commercial property, which are not otherwise taxed:* drivers, porters, pool halls and soft drink parlors, billiard tables, tenpin alleys, shooting galleries, shows, circuses, street parades, theatrical performances, and places of amusements within the city or town; provided, that the power to license, tax, and regulate circuses and shows of like character shall extend three miles beyond the limits of the city or town."

Approved March 4, 1965.

HeinOnline -- 1965 516 1965

CHAPTER 193

An Act Relating to Taxation of Irrigation and Drainage Facilities.

Be it enacted by the Legislative Assembly of the State of Montana:

Taxation of irrigation and drainage facilities.

Section 1. All irrigation and drainage facilities including bonds, rights of way, ditches, flumes, pipelines, dams, water rights, reservoirs and other property of like character shall be taxed as like facilities of the federal and state government; in cases where property taxes apply, and where an increase in land value results, such facilities shall be taxed as such land is improved, and such land shall be classified for tax purposes as the tax classification law provides.

Approved March 4, 1965.

CHAPTER 194

An Act to Amend Section 10-524, Revised Codes of Montana, 1947, Relating to the Circumstances Under Which the State Will Help Aid Dependent and Neglected Children by Including State Payments for Children in Licensed Private Institutions; and Repealing All Acts and Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 10-524, R. C. M. 1947, is amended to read as follows:

Payment of board and room of dependent and neglected children —reimbursement by county.

"10-524. **Payment for board and room of dependent and neglected children — reimbursement by county.** Whenever agreements are entered into by the department of public welfare for placing dependent and neglected children in approved family foster homes *or licensed private institutions,* it shall be the duty of the state department to pay by its check or draft, each month, from any funds appropriated for that purpose, the entire amount agreed upon for board and room of such children.

On or before the twentieth of each month the state department shall present a claim to the county of residence of such children for one-half the payments so made during the month. The county must make reimbursement

HeinOnline -- 1965 517 1965

to the state department within twenty days after such claim is presented."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1965.

CHAPTER 195

An Act to Amend Section 53-615, R. C. M. 1947, to Provide That One Truck-Tractor and Low-Boy Trailer Used by Contractors Engaged Exclusively in Soil Conservation Work and Land Leveling Activities Resulting in Direct Benefit to Agriculture Be Included in the List of Vehicles to Pay Gross Vehicle Weight Fees at a Rate of Twenty Per Cent (20%) of the Fees Provided in Schedules I and II of Said Section, and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 53-615, R. C. M. 1947, be amended to read as follows:

Additional fees on trucks, tractors, trailers and semitrailers.

"53-615. **Additional fees on trucks, tractors, trailers and semitrailers.** In addition to other fees for the licensing of vehicles, there shall be paid and collected annually for each motor truck and truck-tractor, based upon the maximum gross loaded weight thereof as set by the licensee in his application, the following fees:

Trucks.

Schedule I:

Up to 6,000 lbs.	$ 6.00
6,001 lbs. or more, and less than 8,000 lbs.	10.00
8,001 lbs. or more, and less than 10,000 lbs.	14.00
10,001 lbs. or more, and less than 12,000 lbs.	16.00
12,001 lbs. or more, and less than 14,000 lbs.	18.00
14,001 lbs. or more, and less than 16,000 lbs.	22.00
16,001 lbs. or more, and less than 18,000 lbs.	30.00
18,001 lbs. or more, and less than 20,000 lbs.	40.00
20,001 lbs. or more, and less than 22,000 lbs.	50.00
22,001 lbs. or more, and less than 24,000 lbs.	75.00
24,001 lbs. or more, and less than 26,000 lbs.	100.00
26,001 lbs. or more, and less than 28,000 lbs.	125.00

HeinOnline -- 1965 518 1965

28,001 lbs. or more, and less than 30,000 lbs. 165.00
30,001 lbs. or more, and less than 32,000 lbs. 210.00
32,001 lbs. or more, and less than 34,000 lbs. 255.00
34,001 lbs. or more, and less than 36,000 lbs. 300.00
36,001 lbs. or more, and less than 38,000 lbs. 345.00
38,001 lbs. or more, and less than 40,000 lbs. 390.00
40-001 lbs. or more, and less than 42,000 lbs. 435.00

In addition to other fees for the licensing of vehicles, there shall be paid and collected annually for each trailer and semitrailer, based upon the maximum gross loaded weight described above, and as set by the licensee in his application except as otherwise provided in this act the following fees:

Schedule II: **Trailers.**

Trailers Other Than House Trailers

Up to 2,500 lbs. for personal use	Exempt
Up to 2,500 lbs. for commercial use	$ 3.50
2,501 lbs. or more, and less than 6,000 lbs.	4.50
6,001 lbs. or more, and less than 8,000 lbs.	12.00
8,001 lbs. or more, and less than 10,000 lbs.	14.00
10,001 lbs. or more, and less than 12,000 lbs.	16.00
12,001 lbs. or more, and less than 14,000 lbs.	18.00
14,001 lbs. or more, and less than 16,000 lbs.	22.00
16,001 lbs. or more, and less than 18,000 lbs.	30.00
18,001 lbs. or more, and less than 20,000 lbs.	40.00
20,001 lbs. or more, and less than 22,000 lbs.	50.00
22,001 lbs. or more, and less than 24,000 lbs.	75.00
24,001 lbs or more, and less than 26,000 lbs.	100.00
26,001 lbs. or more, and less than 28,000 lbs.	125.00
28,001 lbs. or more, and less than 30,000 lbs.	165.00
30,001 lbs. or more, and less than 32,000 lbs.	210.00
32,001 lbs. or more, and less than 34,000 lbs.	255.00
34,001 lbs. or more, and less than 36,000 lbs.	300.00
36,001 lbs. or more, and less than 38,000 lbs.	345.00
38,001 lbs. or more, and less than 40,000 lbs.	390.00
40,001 lbs. or more, and less than 42,000 lbs.	435.00

In addition to other fees for the licensing of vehicles, there shall be paid and collected annually for each house trailer, based upon over-all length of body as set by the licensee in his application, except as otherwise provided in this act, a fee equal to fifty cents (50¢) for each foot of **House trailers.**

HeinOnline -- 1965 519 1965

over-all trailer body length, exclusive of bumpers and hitch.

Loads in excess of 42,000 pounds.

Provided, that in addition to the fees provided for in Schedules I and II of this act, for each motor truck, truck-tractor, trailer, or semitrailer hauling loads in excess of forty-two thousand (42,000) pounds and within the weight limits specified in section 32-1123, there shall be collected a fee of fifty dollars ($50.00) for each two thousand (2,000) pounds, or fraction thereof.

Equipment owned by ranchers or farmers.

Provided further, on motor trucks, trailers and semitrailers, owned and operated by ranchers or farmers in the transportation of their own ranch, farm, orchard, or dairy products from point of production to market, or of supplies, commodities, or equipment to be used on the ranch, farm, orchard, or dairy, or in the infrequent or seasonal transportation by one farmer for another for any purpose other than commercial hire of products of the farm, orchard or dairy, or of supplies or commodities to be used on the farm, orchard or dairy, *one truck-tractor and low-boy trailer used by contractors engaged exclusively in soil conservation work and land leveling activities that result in direct benefit to agriculture,* except motor trucks owned and operated by co-operative associations or co-operative marketing association, shall be paid and collected annually a fee equal to twenty per cent (20%) of the fees provided in Schedule I and Schedule II above; provided, however, the minimum fee under Schedule I and Schedule II shall be four dollars ($4.00). The terms 'trailers and semitrailers' as used herein shall not include farm wagons.

Exclusion.

Special classification fee.

Provided further, that there shall be paid and collected annually a fee equal to seventy-five per cent (75%) of the fees provided in Schedule I and Schedule II above on pole trailers; trucks, truck-tractors, trailers and semitrailers used exclusively in hauling livestock, logs, and ready-mix concrete; truck-tractors and low-boy trailers used exclusively in hauling equipment; and truck-tractors drawing or hauling said low-boy trailers.

Quarterly licensing —gross weight limitation.

When the gross weight license fee applied for on any vehicle exceeds twenty-four thousand (24,000) pounds, licenses for motor trucks, trailers, tractors, pole trailers, or semitrailers may be purchased for a three-months' period for one-four (¼) the regular fee at the beginning

HeinOnline -- 1965 520 1965

of any quarter of the calendar year. For each fee so paid other than at the time of payment of the basic license fee, an additional fee of one dollar ($1.00) shall be charged. The state highway commission is authorized to establish rules and regulations relative to the issuance and display of certificates or insignia, which shall state the quarters for which the vehicle is licensed.

Limitation on quarterly licensing.

No vehicle licensed under the provisions of this section shall be operated over the public highways unless the owner and/or operator thereof within ten (10) days after the expiration of any such three-month period apply for, and pay the required fee for, a license for an additional three-month period, or for the remainder of the year. Any person who operates any such vehicle upon the public highways after the expiration of said ten (10) days, shall be guilty of a misdemeanor, and in addition shall be required to purchase a gross weight license for the vehicle involved at the fee covering an entire year's license for operation thereof, less the fees for any period or periods of the year already paid. If, within five (5) days thereafter, no license for a full year has been purchased as required aforesaid, the Montana highway patrol, county sheriff or city police shall impound such vehicle in such manner as may be directed for such cases by the supervisor of the Montana highway patrol, until such requirement is met.

Buses.

Provided further, that there shall be paid and collected annually for each bus or auto stage with the exception of school buses the sum of seven dollars ($7.00) per seat exclusive of the first seven (7) seats and the operator, for the maximum adult seating capacity thereof; provided further, that motor vehicles which are regularly used to haul freight and passengers shall be taxed upon the basis of the gross weight schedule hereinabove established; provided further, that school buses shall not be exempt if they enter charter service."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1965.

HeinOnline -- 1965 521 1965

CHAPTER 196

An Act Establishing a Horse Racing Commission and Defining Its Powers and Duties, Repealing Sections 94-2425, 84-6501, R. C. M. 1947; Providing for an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Horse racing commission created.

Section 1. **Horse racing commission created—appointment—removal—claims.** There is hereby created the Montana horse racing commission, to consist of three (3) members, who shall be citizens, residents and qualified electors of the state of Montana. At least one (1) member shall be a breeder of thoroughbred or quarter horses.

Appointment —term.

The members of said commission shall be appointed by the governor within thirty (30) days after this act takes effect, and one (1) for a term to expire on the Thursday following the second Monday in January, 1966, and one (1) for a term to expire on the Thursday following the second Monday in January, 1967, and one (1) for a term to expire on the Thursday following the second Monday in January, 1968, and upon the expiration of the term of any member of said commission, the governor shall appoint a successor for a term of three (3) years with the consent of the Senate.

Removal.

Each member shall hold office until his successor is appointed and qualified. Vacancies on the commission shall be filled by appointment to be made by the governor for the unexpired term.

Any member may be removed from office by the governor for cause after a public hearing. Notice of said hearing shall fix the time and place of hearing and shall specify the charges. Copy of the notice of hearing shall be served on the member by mailing the same to the member at his last known address at least ten (10) days before the date fixed for said hearing.

Definitions.

Section 2. **Definitions.** As used in this act.

"Commission."

(1) "Commission" means Montana horse racing commission.

"Persons."

(2) "Persons" means individuals, firms, corporations and associations.

HeinOnline -- 1965 522 1965

"Race meet."

(3) "Race meet" means and includes any exhibition of thoroughbred, purebred, and/or registered horse racing where the parimutuel system of wagering is used. Singular shall include the plural and plural shall include the singular; and words importing one gender shall be regarded as including all other genders.

Chairman—quorum—costs.

Section 3. **Chairman—quorum—costs.** The commission shall organize by electing one (1) of its members chairman. Two (2) members of the commission shall constitute a quorum for the transaction of any and all business of the commission.

The commission may incur all such costs, charges and expenses as are reasonably necessary in carrying out the intent and purposes of this act.

Annual report—public record.

Section 4. **Commission's annual report—public record.** The commission shall keep detailed records of all meetings and of the business transacted therein, and all licenses applied for and issued, reports of which shall be embodied in an annual report which the commission shall prepare and submit to the governor on or before the thirty-first day of December of each year. Said annual report shall cover the activities of the commission for the preceding year in addition to the aforementioned.

All records of the commission shall be public records, and as such subject to public inspection.

Duties of commission and licensees.

Section 5. **Duties of commission and licensees—license fee.** It shall be the duty of the commission, as soon as possible after its organization, to prepare and promulgate a complete set of rules and regulations to govern race meets and the parimutuel system. Such rules and regulations shall include, but shall not be limited to the following, to-wit: definitions, auditing and supervision of the parimutuel system, corrupt practices, supervision, duties and responsibilities of the presiding steward, racing secretary and other racing officials, licensing of all personnel who have any function whatsoever to do with the substantive operation of racing, the establishment of dates for race meets and meetings in the best interests of breeding and racing in the state of Montana, and the veterinary practices and standards which must be observed in connection with race meets. Rules pertaining to medication, testing of horses, examining horses prior to racing, and

HeinOnline -- 1965 523 1965

banning horses from running shall meet the approval of an advisory committee of the Montana veterinary medical association. It shall be the duty of each person holding a license under the authority of the act, and every owner, trainer, jockey, and attendant at any race course in this state, to comply with this act and with all rules and regulations promulgated and all orders issued by the commission.

License fee.

It shall be unlawful for any owner, trainer, or jockey, to participate in any race meet without first securing and having in full force and effect, an annual license therefor from the commission. The license fee for such annual license shall be five dollars ($5), which shall be paid to the commission and used for operating expenses of the commission. All claims and expenditures under this act shall be first audited and passed upon by the commission. When they are approved, they shall be paid from the license fees. If the license fees exceed the commission expenses, the excess shall be deposited to the state general fund, provided that in no event shall commission expenses be paid in an amount in excess of the aforementioned license fees.

Authority of commission.

Section 6. **Authority of commission.** The commission created by this act is hereby authorized and it shall be its duty to license, regulate, and supervise all race meets held in this state under the terms of this act, and to cause the various places where race meets are held to be visited and inspected at least once a year.

License—application—races—fee per day—refund—cancellation—hearing.

Section 7. **License—application therefor—type and number of races—fee per day—refund—cancellation—hearing.** It shall be unlawful for any person to hold any race meet in this state without having first obtained and having in force and effect a license issued by the commission as in this act provided. Every person making application for a license to hold a race meet, under the provisions of this act, shall file an application with the commission which shall set forth the time, place and number of days such will continue, and such other information as the commission may require. There will be no license fee charge for a racing meet except as now provided in 84-6502.

No person who has been convicted of any crime involving moral turpitude shall be issued a license of any kind,

HeinOnline -- 1965 524 1965

nor shall any license be issued to any person who has violated the terms or provisions of this act, or any of the rules and regulations of the commission, or who has failed to pay any of the fees, taxes or monies required under the provisions of this act.

All applications to hold race meets shall be submitted to the commission which shall act upon such applications within thirty (30) days. The commission shall be the sole judge of whether or not the race meet shall be licensed and the number of days the meet shall continue.

It shall be the duty of the commission to require that fairs conducting race meets in conjunction with their regularly scheduled fair shall meet the requirements of the rules and regulations set up by the racing commission prior to granting them their license. Any unexpired license held by any person who violates any of the provisions of this act, pursuant thereto, or who fails to pay to the commission any and all sums required under the provisions of this act, shall be subject to cancellation and revocation by the commission. Such cancellation shall be made only after a summary hearing before the commission, of which three (3) day's notice, in writing, shall be given the licensee, specifying the grounds for the proposed cancellation, and at which hearing the licensee shall be given an opportunity to be heard in opposition to the proposed cancellation.

Penalty for violation—power of commission.

Section 8. **Penalty for violations of law—power of commission.** Any person holding a race meet, and any owner, trainer, or jockey participating in a race meet, without first being licensed by the commission, and any person willfully violating any of the terms or provisions of this act is guilty of a misdemeanor.

The commission shall have the power to exclude from any and all race courses in this state any person whom the commission deems detrimental to the best interest of racing, or any person who willfully violates any of the provisions of this act or any rule, regulation, or order of the commission.

It shall be lawful to conduct race meets on or at a race track or otherwise, at any time during the week.

HeinOnline -- 1965 525 1965

Race exclusively for Montana bred horses—bonus for winner.

Section 9. **Race exclusively for Montana bred horses —bonus for winner.** For the purpose of encouraging the breeding, within the state, of valuable thoroughbred, purebred, quarter horse, appaloosa and/or registered horses, at least one (1) race each day at each race meet shall be limited to Montana bred horses. If in the opinion of the commission sufficient competition cannot be had among such class of horses, said race may be eliminated for said day and a substitute race provided instead.

A sum equal to ten per cent (10%) of the first money of every purse won by a Montana bred horse shall be paid by the licensee conducting the race meet to the breeder of such horse.

Public liability insurance.

Section 10. **Public liability insurance.** For the protection of the public, and all members thereof, the exhibitors and visitors, every person licensed to conduct a race meet under the provisions of this act shall carry public liability insurance in an amount and form of contract and with a company authorized to do business in Montana.

Parimutuel betting —other betting illegal.

Section 11. **Parimutuel betting—other betting illegal.** Any licensee conducting a race meet under this act may provide a place or places in the race meet grounds or enclosure at which such licensee may conduct or supervise the use of the parimutuel system by patrons on the result of the races conducted by such licensee at such race meet, and such parimutuel system conducted at such race meet shall not under any circumstances, if conducted under the provisions of this act and in conformity thereto and to the rules and regulations of the commission, to be held or construed to be unlawful, other statutes of this state to the contrary notwithstanding.

It shall be unlawful to conduct pool selling, book making, or to circulate hand books, or to bet or wager on a race of any licensed race meet, other than by the parimutuel system, and in the race meet grounds or enclosure where the race is held, and it shall further be unlawful to permit any minor to use the parimutuel system.

Distributions of deposits— "breakage."

Section 12. **Distributions of deposits—breakage.** Each licensee conducting the parimutuel system shall distribute all sums deposited in any pool to the winner

HeinOnline -- 1965 526 1965

thereof, less an amount which shall not exceed twenty per cent (20%) of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of ten (10), known as "breakage."

Licensee's right to withhold deposits.

Section 13. **Licensee's right to withhold deposits.** In the event any government or governmental agency imposes a levy on a licensee, by a special tax on the money so deposited under the parimutuel system, or upon or against his receipts therefrom, the said licensee may withhold in addition to the aforesaid per centum and breakage the amount of the tax so levied.

Allocation of license tax receipts.

Section 14. **Allocation of license tax receipts.** License tax receipts on racing associations shall be collected and disposed of as provided by section 84-6502, R. C. M. 1947.

Repealing clause.

Section 15. Repealing section 94-2425, R. C. M. 1947, and section 84-6501, R. C. M. 1947, enacted as section 1, chapter 57, laws of 1961, and all acts and parts of acts in conflict herewith.

Severability clause.

Section 16. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Effective immediately.

Section 17. This act is effective on its passage and approval.

Approved March 5, 1965.

CHAPTER 197

An Act to be Known as the Montana Highway Code, for the Codification and General Revision of the Laws Pertaining to Highways, Including Planning, Construction, and Maintenance; Amending Sections 16-1004, 16-2008, 16-2010, 16-2011, 16-3302, 53-122, 84-1831, 94-3202, and 94-3565, R. C. M. 1947, and Repealing Sections 16-1004.1, 16-1118, 16-1127, 16-1128, 16-2009, 16-2201 Through 16-2204, 16-3311, 16-3312, 32-102 Through 32-107, 32-201 Through 32-208, 32-302 Through 32-314,

HeinOnline -- 1965 527 1965

32-316, 32-401 Through 32-413, 32-415, 32-416, 32-501, Through 32-507, 32-509 Through 32-526, 32-601, 32-602, 32-701 Through 32-711, 32-713 Through 32-715, 32-901 Through 32-905, 32-1002 Through 32-1010, 32-1012 Through 32-1014, 32-1016, 32-1301, 32-1601 Through 32-1610, 32-1613 Through 32-1618, 32-1620, 32-1622 Through 32-1626, 32-1801 Through 32-1804, 32-1901 Through 32-1915, 32-2001 Through 32-2010, 53-615 Through 53-619, 53-621 Through 53-623, 53-628 Through 53-631, 53-634 Through 53-639, 53-643, 84-1812 (1), 84-1812 (2), 84-1815, 84-1817, 89-821, 89-822, and 94-3201, R. C. M. 1947; Providing for a Savings Clause and Providing for the Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Legislative intent.

Chapter 1. LEGISLATIVE INTENT.

Safe and efficient highway transportation is of interest to people of the state.

Section 1. The legislative assembly recognizes that safe and efficient highway transportation is of important interest to all of the people of the state and hereby determines and declares that:

(1) Inadequate highways, roads, and streets obstruct the free flow of traffic, increase costs of motor vehicle operation, endanger the health and safety of the citizens of the state, depreciate property values, and impede generally the economic progress of the state.

(2) The problems of establishing and maintaining adequate highways, roads, and streets, eliminating congestion, reducing accident frequency, providing parking facilities, and taking all necessary steps to insure safe and convenient transportation are urgent.

(3) Therefore, adequate and integrated systems of highways, roads, and streets are essential to the general welfare of the state of Montana.

(4) Providing adequate highway facilities is a proper public use and purpose, and that this act is necessary for the preservation of the public peace, health, and safety, for the promotion of the general welfare, and as a contribution to the national defense.

Intent of legislative assembly.

Section 2. Consistent with the foregoing determinations and declarations the legislative assembly intends:

(1) To place a high degree of trust in the hands of those officials whose duty it is, within the limits of avail-

HeinOnline -- 1965 528 1965

able funds, to plan, develop, operate, maintain and protect the highway facilities of this state for present as well as for future use.

(2) To make the state highway commission custodian of the federal-aid and state highways, and to impose similar responsibilities upon the boards of county commissioners with respect to county roads and upon municipal officials with respect to the streets under their jurisdiction.

(3) That the state of Montana shall have integrated systems of highways, roads, and streets, and that the state highway commission, the counties and municipalities assist and cooperate with each other to that end.

(4) To provide sufficiently broad authority to enable the highway officials at all levels of government to function adequately and efficiently in all areas of their respective responsibilities, subject to the limitations of the constitution and the legislative mandate hereinafter imposed.

Chapter 2. DEFINITIONS. Definitions.

Section 2-101. **General Definitions.** Subject to additional definitions contained in subsequent chapters of this Code which are applicable to specific chapters or parts, and unless the context otherwise requires, terms are defined as follows: General definitions.

(1) "Abandonment"—Cessation of use of right of way (easement) or activity thereon with no intention to reclaim or use again. (Sometimes called "vacation.") "Abandonment."

(2) "Auditor"—County auditor. "Auditor."

(3) "Authority"—Montana toll bridge authority. "Authority."

(4) "Board"—Board of county commissioners. "Board."

(5) "Bridge"—Includes rights of way or other interest in land, abutments, superstructures, piers, and approaches except dirt fills. "Bridge."

(6) "Clerk"—County clerk and recorder. "Clerk."

(7) "Commission"—State highway commission. "Commission."

(8) "Committee"—Local improvement district committee of supervisors. "Committee."

HeinOnline -- 1965 529 1965

"Condemnation." (9) "Condemnation"—Taking by exercise of the right of eminent domain.

"Construction." (10) "Construction"—Supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping, costs of right of way or other interests in land and elimination of hazards at railway-grade crossings.

"Control of access." (11) "Control of access"—The condition in which the right of owners or occupants of abutting land or other persons to access, light, air, or view in connection with a highway is fully or partially controlled by public authority.

"County road." (12) "County road"—Any public highway opened, established, constructed, maintained, abandoned, or discontinued in accordance with the provisions of part 2 of chapter 8 and part 4 of chapter 5 of this Code.

"Easement." (13) "Easement"—A right acquired by public authority to use or control property for a designated purpose.

"Eminent domain." (14) "Eminent domain"—The right of the state to take private property for public use.

"Engineer." (15) "Engineer"—State highway engineer.

"Federal-aid highway." (16) "Federal-aid highway"—Any public highway which is a portion of any of the federal-aid highway systems.

"Federal-aid highway systems." (17) "Federal-aid highway systems"—All of the systems named hereafter and their urban extensions.

"Federal-aid interstate system." (18) "Federal-aid interstate system"—That system of public highway selected by the commission in cooperation with adjoining states, subject to the approval of the secretary of commerce as provided in the federal highway act, as amended.

"Federal-aid primary system." (19) "Federal-aid primary system"—That system of connected public highways designated by the commission subject to the approval of the secretary of commerce, as provided in the federal highway act, as amended.

"Federal-aid secondary system." (20) "Federal-aid secondary system"—That system of public highways not on the federal-aid primary or in-

HeinOnline -- 1965 530 1965

terstate systems selected by the commission in cooperation with the boards of county commissioners, subject to the approval of the secretary of commerce, as provided in the federal highway act, as amended.

"Fee simple." (21) "Fee simple"—An absolute estate or ownership in property including unlimited power of alienation.

"Highway." (22) "Highway"—Includes rights of way or other interests in land, embankments, retaining walls, culverts, sluices, drainage structures, bridges, railroad-highway crossings, tunnels, signs, guardrails, and protective structures.

"Highway," "road," "street." (23) "Highway," "road," "street"—Whether they appear together or separately or are preceded by the adjective "public," these are general terms denoting a public way for purposes of vehicular travel, including the entire area within the right of way.

"Highway authority(ies)." (24) "Highway authority (ies)"—The entity (ies) at any level of government authorized by law to construct and maintain highways.

"Maintenance." (25) "Maintenance"—Preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for its safe and efficient utilization.

"Public highways." (26) "Public highways"—All streets, roads, highways, bridges, and related structures, which have been or shall be:

(a) Built and maintained with appropriated funds of the United States or the state or any political subdivision thereof.

(b) Dedicated to public use.

(c) Acquired by eminent domain.

(d) Acquired by adverse user by the public, jurisdiction having been assumed by the state or any political subdivision thereof.

"Right of way." (27) "Right of way"—A general term denoting land, property, or any interest therein, usually in a strip, acquired for or devoted to highway purposes.

"State highway." (28) "State highway"—Any public highway planned, laid out, altered, constructed, reconstructed, improved, repaired, maintained, or abandoned by the commission.

HeinOnline -- 1965 531 1965

"Superintendent." (29) "Superintendent"—County road superintendent.

"Supervisor." (30) "Supervisor"—County road supervisor.

"Surveyor." (31) "Surveyor"—County surveyor.

"Toll bridge." (32) "Toll bridge"—Any bridge constructed by the Montana toll bridge authority, together with all appurtenances, additions, alterations, improvements, replacements, and the approaches thereto, lands used therefor, and improvements thereon.

"Treasurer." (33) "Treasurer"—County treasurer.

Classification of highways.

Chapter 3. CLASSIFICATION OF HIGHWAYS.

Classification—highways and roads. Public highways.

Section 3-101. **Classification—Highways and Roads.** (1) Public highways of this state are classed as follows:

(a) Federal-aid highways

(b) State highways

(c) County roads

(d) City streets.

(2) All highways which are not designated, selected, established, constructed, or maintained by the commission are county roads or city streets.

County roads. (3) County roads are those opened, established, constructed, maintained, changed, abandoned, or discontinued, in accordance with the provisions of part 2 of chapter 8 and part 4 of chapter 5 of this Code.

City streets. (4) City streets are those public highways under the jurisdiction of municipal officials.

Lewis and Clark highway.

Section 3-102. **Lewis and Clark Highway.** There is hereby established the Lewis and Clark Highway. It shall be composed of the following existing routes: (1) From the Idaho state line west of Lolo Hot Springs, Montana, to the junction with U.S. highway ninety-three (93) at Lolo.

(2) Thence north from Lolo on U.S. highway ninety-three (93) to Missoula.

(3) Thence east from Missoula on U.S. highway twelve (12) and ten (10) to Garrison.

HeinOnline -- 1965 532 1965

(4) Thence east from Garrison on U.S. highway twelve (12) through Forsyth and Baker to the North Dakota state line.

Chapter 4. STATE ADMINISTRATION.

State administration.

Part 1. **Assent To Federal Aid. State Highway Commission, Powers And Duties.**

Assent to federal aid—state highway commission, powers and duties.

Section 4-101. **Assent to Federal-Aid Acts.** (1) The legislative assembly, for and on behalf of the state of Montana, assents to the provisions of the federal-aid road act, approved July 1, 1916, and the federal highway act, approved November 9, 1921, and all amendments thereto.

Assent to federal-aid acts.

(2) The commission may, for and on behalf of the state, enter into all contracts and agreements with the United States or any officer, department, or bureau thereof relating to the construction, reconstruction, repair, and maintenance of highways in the state.

(3) The commission may make all rules necessary to comply with the provisions of the acts assented to, and all other acts granting aid for public highways, and to obtain for the state the full benefits of such acts.

(4) The commission may do all other things necessary or required to carry out fully the cooperation contemplated by the acts of Congress assented to.

Section 4-102. **State Highway Commission.** The state highway commission consists of five (5) members to be appointed by the governor with the consent of the senate. Members of the commission now holding office shall continue until the expiration of their terms.

State highway commission.

Section 4-103. **Commission Members—Qualifications—Appointment.** (1) Each member shall be a citizen of the United States and a resident of the state of Montana.

Commission members—qualifications—appointment.

(2) One (1) member shall be a bona fide resident of and appointed from each of these districts, each composed of the counties named:

Districts—counties.

(a) District 1. Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Ravalli, Granite, Lewis and Clark, Jefferson, Broadwater.

(b) District 2. Powell, Deer Lodge, Silver Bow, Beaverhead, Madison, Gallatin, Meagher, Wheatland, Park, Sweet Grass.

HeinOnline -- 1965 533 1965

(c) District 3. Glacier, Toole, Liberty, Hill, Blaine, Pondera, Teton, Chouteau, Cascade, Judith Basin.

(d) District 4. Fergus, Petroleum, Garfield, Phillips, Valley, McCone, Prairie, Dawson, Wibaux, Richland, Roosevelt, Daniels, Sheridan.

(e) District 5. Golden Valley, Stillwater, Carbon, Big Horn, Yellowstone, Musselshell, Rosebud, Treasure, Custer, Powder River, Carter, Fallon.

Terms—limitations.

(3) (a) The terms of office of the members of the state highway commission shall be for four (4) years, and shall expire on the first day of February.

(b) If a vacancy occurs, the governor shall appoint with the consent of the senate a person having the qualifications herein provided who shall hold office only for the unexpired portion of the term in which the vacancy occurs.

(4) (a) No two (2) members shall at the time of appointment or thereafter during their respective terms of office be residents of the same district.

(b) Not more than three (3) members shall at the time of appointment or thereafter during their respective terms be members of the same political party.

(c) No elective state official or state officer during the term of office to which he was elected or appointed and no state employee shall be a member of the commission.

(d) No member shall be removed from office by the governor before the expiration of his term except for a disqualifying change of residence or for a cause based upon a determination of incapacity, incompetence, neglect of duty, or malfeasance in office.

Commission members—bond—expenses.

Section 4-104. **Commission Members—Bond—Expenses.** (1) Each member shall give bond conditioned for the faithful performance of his duties in the sum of ten thousand dollars ($10,000).

(2) Each member shall receive twenty dollars ($20) per diem for each day actually spent in the performance of his duties and his actual necessary traveling and other expenses in going to, attending, and returning from meetings of the commission. Each member shall also re-

HeinOnline -- 1965 534 1965

ceive his actual and necessary traveling and other expenses incurred in the discharge of such duties as may be required of him by a majority vote of the commission. In no event shall a member's per diem payments exceed two thousand dollars ($2,000) in any one (1) year.

Per diem limitation.

Section 4-105. **Commission — Chairman — Meetings.** (1) Annually the commission shall elect one (1) of its members as chairman. Election as chairman shall not interfere with the member's right to vote on all matters before the commission.

Commission —chairman —meetings.

(2) The commission shall meet at least once each month for the purpose of transacting business including the consideration of claims and the letting of contracts.

(3) Three (3) members shall constitute a quorum. No resolution, motion, or other decision of the commission shall be adopted or passed without the favorable vote of at least three (3) members.

Section 4-106. **General Power of Commission.** The commission may plan, lay out, alter, construct, reconstruct, improve, repair, maintain, and abandon highways on the federal-aid systems and state highways. It may cooperate and contract with counties and municipalities to provide assistance in performing such functions on other highways and streets.

General power of commission.

Section 4-107. **Commission to Designate Highways.** (1) The commission shall designate such public highways in the state as shall be classed as the federal-aid primary system.

Commission to designate highways.

(2) The commission shall in cooperation with the board of county commissioners, select such public highways in the state as shall be classed as the federal-aid secondary system.

(3) The commission shall, in cooperation with adjoining states, select the routes of the federal-aid interstate system.

(4) The commission shall designate such public highways in the state as shall be classed as state highways and make necessary rules and regulations for the construction, repair, maintenance, and marking of state highways and bridges.

HeinOnline -- 1965 535 1965

Designation of highways not located entirely within the state.

Section 4-108. **Designation of Highways Not Located Entirely Within the State.** (1) The commission may designate highways subject to improvement under the provisions of the federal-aid road act, approved July 11, 1916, the federal highway act, approved November 9, 1921, and all amendments thereto, even though such highways are not located entirely and continuously within the boundaries of the state. Such designations shall meet the following conditions:

Conditions.

(a) That the highway is on an approved federal-aid route and eligible for improvement under the federal-aid acts.

(b) That the location of a portion of the route outside the boundaries of the state is necessary because of natural geographical or physical conditions which make the construction of the highway within the state impossible or impracticable.

(c) That the portion of the route located outside the state does not connect with and is not a part of the state highway system of the adjoining state.

(2) The commission may expend funds for the construction, reconstruction, engineering, administration, betterment, and maintenance of such highways. It may do all things necessary or required to carry out fully the cooperation contemplated under the federal-aid acts with regard thereto.

Duties of commission—reports.

Section 4-109. **Duties of Commission—Reports.** The commission shall: (1) Make all rules and regulations necessary for its government.

(2) Maintain and preserve all its records in its office at the capitol, keeping its office open at such times as its business shall require.

(3) File and preserve:

(a) A record of all proceedings and orders pertaining to the matters under its direction.

(b) Copies of all plans, specifications, contracts, estimates and official acts.

(4) Prepare and submit to the governor on or before the fifteenth day of each month a report of work constructed, under construction, and proposed for construc-

HeinOnline -- 1965 536 1965

tion, the progress made during the preceding month, and recommendation for improvements and their estimated costs.

(5) Prepare and submit to the governor and the legislative assembly during its regular session, not later than the fifth legislative day, a comprehensive condensed report of commission activities for the preceding biennium. The report shall include:

(a) An accounting for all moneys received from federal or state sources.

(b) A review of projects undertaken and completed.

(c) A summary of maintenance work performed.

(d) Statistical tables covering personnel changes, compensation and status.

(e) A review of right of way procurement experience, including condemnation proceedings and the average price paid per acre of land in representative areas of the state.

(f) All other matters which would assist the assembly in determining the financial and legal requirements of the commission for the following biennium.

Compilation of statistics—investigation—consultation.

Section 4-110. **Compilation of statistics—investigation—consultation.** (1) The commission shall compile statistics regarding public highways throughout the state and collect all related information deemed expedient.

(2) It shall investigate various methods of construction adapted to different sections of the state, and decide the best methods of construction and maintenance of highways, bridges, and road markers.

(3) The commission and the state highway engineer may be consulted at all reasonable times by county officers having care and authority over highways and bridges and shall advise them on construction, repair, alteration, or maintenance.

(4) The commission and the engineer shall furnish such information and advice as may be requested by persons interested in the construction, maintenance, and marking of public highways. They shall at all times lend their aid in promoting highway improvement throughout the state.

HeinOnline -- 1965 537 1965

Agreements concerning effects of weight on highways.

Section 4-111. **Agreements concerning effects of weight on highways.** (1) The commission may contract with the United States or any state or group of states, or agencies thereof, or any nonprofit association, on a joint or cooperative basis, to study, analyze, or test the effects of wights on highways. Studies or tests shall seek solutions to the problems connected with the imposition of motor vehicle weights on highways.

(2) Studies or tests may be made either by designating existing highways or by constructing test strips, including natural resource roads.

Seeding along highways.

Section 4-112. **Seeding along highways.** (1) After a federal-aid or state highway is constructed, the commission shall seed borrow pits, slopes and shoulders to an adaptable perennial grass or combination of perennial grasses and legumes whenever establishment of perennial grass covers seem suitable. The seed shall be certified.

(2) The commission shall seek joint recommendations and specifications as to time and method of seeding, fertilizing practices and grass species from the Montana extension service, the experiment station, and the soil conservation service.

Description and plan of new highway or controlled access facility—recording.

Section 4-113. **Description and plan of new highway or controlled access facility—recording.** (1) Whenever the commission shall establish the location width, and lines of any new or proposed highway, or declare any road, street or highway as a controlled access facility, it shall make a description and plan showing the center line and the established width.

(2) That description and plan and an attached certified copy of the commission resolution establishing the location shall be recorded in the office of the proper county clerk and recorder in a separate book kept for that purpose. The commission shall, at its expense, furnish each county clerk and recorder with an appropriate book.

Relocation of utilities facilities —hearings—order.

Section 4-114. **Relocation of utilities facilities — hearings—order.** (1) After appropriate hearings, the commission may make and publish reasonable regulations for the installation, construction, maintenance, repair, renewal, or relocation of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and ap-

HeinOnline -- 1965 538 1965

pliances (hereafter called "facilities") of any utility in, on, along, over, across, through or under any project on any of the federal-aid systems.

(2) The commission shall give written notice of the place and time of a public hearing to determine the necessity of any relocation of facilities to all concerned not less than twenty (20) days before the hearing. Hearing may be waived in writing by the utility concerned or other interested parties.

(3) After the hearing, the commission may determine that any such facilities must be relocated. If so, the utility owning or operating the facilities shall relocate them in accordance with the valid order of the commission. The utility and its successors and assigns may maintain and operate the relocated facilities, with the necessary appurtenances, in the new location.

Relocation—costs.

Section 4-115. **Relocation — costs.** Seventy-five per cent (75%) of all costs of relocation, including the costs of acquisition of new right of way, of dismantling, and of removal, shall be paid by the commission as a cost of highway construction.

Relocation—definitions.

Section 4-116. **Relocation — definitions.** For the purposes of the sections relating to relocation of utilities facilities, terms are defined as follows: (1) Utility—Includes publicly, privately, and cooperatively owned utilities.

Utility.

Cost of relocation.

(2) Cost of relocation—Includes the entire amount paid by the utility properly attributable to the relocation after deducting any increase in the value of the new facility and any salvage value derived from the old facility.

Federal aid systems.

(3) Federal-aid systems — Includes the federal-aid primary system, the federal-aid secondary system, the federal-aid interstate system, and urban extensions of all of them.

Interstate system.

(4) Interstate system—Includes any highway now included or which shall hereafter be included as a part of the National System of Interstate and Defense Highways, provided for in the Federal-Aid Highway Act of 1956 and supplements or amendments.

Certification and payment of claims.

Section 4-117. **Certification and payment of claims.** (1) All accounts and expenditures shall be certified by the state highway engineer and paid by the state treas-

HeinOnline -- 1965 539 1965

urer upon warrants drawn by the state auditor out of the proper funds.

(2) The commission shall certify the fund against which the warrant is to be drawn and state the project to which the payment will apply.

(3) The commission shall keep accounts showing the amount of money received for each project and the itemized expenses therefor.

Prosecution for violation.

Section 4-118. **Prosecution for violation.** The commission shall prosecute any person guilty of violation of this Code.

State highway engineer and other employees.

Part 2. **State Highway Engineer and Other Employees.**

State highway engineer.

Section 4-201. **State highway engineer** (1) The commission may appoint a professional engineer to be known as the "state highway engineer," and shall fix his salary.

(2) The state highway engineer shall perform any acts or duties relating to the functions of the commission which the commission may impose.

(3) The engineer shall take and file the constitutional oath of office before entering upon the performance of his duties, and shall give a bond in such sum as the commission may require.

(4) The commission may remove the engineer at any time for cause.

Commission —employees —salaries.

Section 4-202. **Commission—employees—salaries.** (1) The commission shall employ such personnel as it shall deem necessary and fix their compensation. Compensation shall be paid from funds deposited to the credit of the commission.

(2) The commission may, in its discretion, assign personnel for service to any county at the request of the board of county commissioners. The expense of this service shall be paid to the commission by the county.

Division of maintenance and control.

Section 4-203. **Division of maintenance and control.** The commission may organize and operate a division of maintenance and control to maintain highways constructed by the state and, by cooperation with boards of county commissioners, such other highways as the commission may deem necessary.

HeinOnline -- 1965 540 1965

Part 3. **Distribution and Apportionment of Highway Construction Funds.**

Distribution and apportionment of highway construcion funds.

Section 4-301. **Distribution and use of proceeds of gasoline dealers' license tax.** One percent (1%) of all money received in payment of license taxes under the provisions of this act shall be deposited in the state park account in the earmarked revenue fund. All other money received, except that amount paid out of the state board of equalization's suspense account for gasoline tax refund shall be used and expended by the state highway commission on the federal-aid highways in this state selected and designated under the provisions of the federal aid act, approved July 11, 1916, and the federal highway act, approved November 9, 1921, and all amendments thereto, and on highways leading from each county seat in the state to said federal highway system of federal-aid roads where such county seat is not on said system, and on such other roads as have been or may be authorized by the laws of Montana, for the collection and enforcement of this act, pursuant to the provisions of Article XII, Section 1 (b) of the constitution of the state of Montana. It shall be the duty of the state highway commission, in expending such money, to carry forward construction from year to year, using the money expended through the matching up of federal-aid allotments to Montana upon the said federal highway system of highways in the various parts of the state in accordance with the provisions of sections 4-308 through 4-310; provided that nothing in this act shall be construed to conflict with said federal-aid highway acts and the rules by which they are administered. The state highway commission is authorized to enter into cooperative agreements with the national park service and the bureau of public roads for the purpose of maintaining national park approach roads in Montana.

Distribution and use of proceeds of gasoline dealers' license tax.

Cooperative agreements.

Money credited to the state park account in the earmarked revenue fund shall be used only for the creation, improvement, and maintenance of state parks where motor boating is allowed. The legislative assembly hereby finds as a fact that of all the fuel sold in the state of Montana for consumption in internal combustion engines, not less than one per centum (1%) is used for propelling boats on waterways of this state.

Funds—state park account.

Section 4-302. **Limitation on Expenditure.** (1) The cost to the state for administration, dissemination of pub-

Limitation on expenditure.

HeinOnline -- 1965 541 1965

lic information, and engineering on the systems of federal-aid highways shall not exceed for any fiscal year eight per cent (8%) of the total of state, federal-aid, and other available funds expended under the supervision of the commission.

(2) The annual expenditure for dissemination of public information shall not exceed one hundred and twenty-six thousand five hundred dollars ($126,500).

Districts for apportionment of commission funds.

Section 4-306. **Districts for apportionment of commission funds.** All money available to the commission for highway construction purposes shall be apportioned among these financial districts, each composed of the counties named:

Districts—counties.

District 1. Lincoln, Flathead, Lake.

District 2. Glacier, Toole, Liberty, Hill, Blaine.

District 3. Phillips, Valley, Daniels, Sheridan, Roosevelt.

District 4. McCone, Richland, Dawson, Prairie, Wibaux.

District 5. Fergus, Garfield, Petroleum.

District 6. Pondera, Teton, Chouteau, Cascade, Judith Basin.

District 7. Lewis and Clark, Jefferson, Broadwater.

District 8. Sanders, Mineral, Missoula, Ravalli, Granite, Powell.

District 9. Beaverhead, Deer Lodge, Silver Bow, Madison.

District 10. Park, Gallatin, Sweet Grass, Meagher, Wheatland.

District 11. Golden Valley, Musselshell, Stillwater, Yellowstone, Carbon, Big Horn, Treasure.

District 12. Rosebud, Custer, Fallon, Powder, River, Carter.

Construction or reconstruction of bridges.

Section 4-307. **Construction or reconstruction of bridges.** (1) The commission may allocate from state construction moneys available for the federal-aid highway system up to one million dollars ($1,000,000) in any fiscal year for the construction or reconstruction of any

HeinOnline -- 1965 542 1965

major bridge or system of bridges on the primary or secondary highway systems. This may be done only when the use of regularly apportioned funds would prohibit or seriously delay the orderly and necessary highway construction program in the financial districts.

(2) When the commission, as a part of its finding of public necessity, declares that a particular bridge should be constructed or reconstructed on a designated portion of the primary or secondary highway, the allocation may be made. The allocation may be expended:

(a) On primary bridges when the engineer's estimate of the cost of construction or reconstruction is in excess of five hundred thousand dollars ($500,000). Primary bridges.

(b) On secondary bridges when the engineer's estimate of the state's share of the cost of construction or reconstruction is in excess of the total estimated future regular apportionment of state construction moneys to the federal-aid secondary system of the county or counties for a period of three (3) years. Secondary bridges.

(3) The allocation shall be made from available state construction moneys for the primary system before the apportionment provided for in section 4-309, and for the secondary system before the apportionment provided for in section 4-310.

Section 4-308. **Apportionment of state construction funds.** Annually, beginning July 1, 1965, and at the beginning of each fiscal year thereafter, the commission shall apportion available state construction funds to the various federal-aid highway systems as may be required to match the amounts of federal aid available for expenditure on each respective system. Apportionment of state construction funds.

Section 4-309. **Apportionment of state funds to federal-aid primary highway system.** (1) Annually, beginning July 1, 1965, and at the beginning of each fiscal year thereafter, the commission shall determine the amount of incompleted mileage of the federal-aid primary system within each of the financial districts. Apportionment of state funds to federal-aid primary highway system.

(a) As a basis for determination of incompleted mileage, the commission shall compare the present condition of the system with the latest approved state standards. Any mileage failing to meet those standards shall

HeinOnline -- 1965 543 1965

be included in the determination as partially completed. The proportion of completion shall be determined by estimating the amount of work which must be performed to complete the highway.

(2) The commission shall then compute the ratio between the incompleted mileage in each district and the total incompleted mileage of the federal-aid primary system in the state.

(3) The commission shall then apportion available state construction funds to the federal-aid primary system in each district on the basis of the computed ratio.

Apportionment of state funds to federal-aid secondary highway system.

Section 4-310. **Apportionment of state funds to federal-aid secondary highway system.** (1) Annually, beginning July 1, 1965, and at the beginning of each fiscal year thereafter, the commission shall apportion available state construction funds for the federal-aid secondary highway system among the financial districts. The proportion which each district shall receive shall be computed on the following basis:

(a) One-fourth (1/4) in the ratio of land area in each district to the total land area in the state.

(b) One-fourth (1/4) in the ratio of the rural population in each district to the total rural population in the state.

(c) One-fourth (1/4) in the ratio of the rural road mileage in each district to the total rural road mileage in the state.

(d) One-fourth (1/4) in the ratio of value of rural lands in each district to the total value of rural lands in the state.

(2) Funds apportioned to each district shall be further apportioned to each county therein on the same basis, considering ratios of land area, rural population, rural road mileage, and value of rural lands. To the extent necessary to permit orderly programming and construction of projects, expenditures in any county may exceed the amount apportioned to that county to the extent of three (3) times the amount of the last apportionment thereto. The amount of any such excess expenditures shall be deducted from future apportionments to that county.

HeinOnline -- 1965 544 1965

(3) For the purposes of this section, terms are defined as follows:

Rural population.

(a) Rural population—Total population less the population in cities over five thousand (5,000) persons and their unincorporated fringe urban areas as reported in the latest federal census.

(i) Federal census population figures shall be adjusted in the interim between censuses in accordance with the percentage of change in annual motor vehicle registration figures for each county.

Rural road mileage.

(b) Rural road mileage—All road mileage outside of incorporated cities, exclusive of road mileage on the federal-aid primary highway system and the federal-aid interstate system.

(i) Rural road mileage reported by the road inventory of the commission shall be used in determining rural road mileage.

Value of rural lands.

(c) Value of rural lands—Includes the value of state owned lands from which the state derives grazing, timber, and agricultural income.

(i) The basis for the value of rural lands shall be computed from the latest biennial report of the state board of equalization.

(ii) The basis for the value of state owned lands shall be computed from the latest figures on the total grazing, timber, and agricultural lands in each county contained in the latest biennial report of the commissioner of state lands and investments.

(iii) The average value of privately owned lands shall be the average value of state owned lands, if the actual value is not available.

Secondary highway information.

Section 4-311. **Secondary highway information.** On or before August 30 of each year, the commission shall inform each board of county commissioners of: (1) The total amount of secondary highway funds and the amount apportioned to each county.

(2) The location of proposed secondary highway projects when the information is available.

(3) Such other matters regarding secondary highway construction as the commission deems advisable and of interest to the counties.

HeinOnline -- 1965 545 1965

Apportionment of state funds to federal-aid interstate highway system.

Section 4-312. **Apportionment of state funds to federal-aid interstate highway system.** (1) Annually, beginning July 1, 1965, and at the beginning of each fiscal year thereafter, the commission shall apportion available state construction funds for the federal-aid interstate highway system among the financial districts.

(2) The apportionment shall be based upon the ratio between the estimated cost of constructing or reconstructing the system in each district and the estimated cost of constructing or reconstructing the entire system within the state.

(3) The cost estimates to be used shall be those developed by the commission in accordance with the provisions of the federal-aid highway act of 1956, as amended.

Increases in expenditures.

Section 4-313. **Increases in expenditures.** (1) The commission may increase the expenditures made in any financial district to the extent of:

(a) Fifteen per cent (15%) more than the amount of money allocated to such district in the latest year for the federal-aid primary system or the federal-aid secondary system.

(b) One hundred per cent (100%) more than the amount of money allocated to such district in the latest year for the federal-aid interstate highway system.

(2) The allocation of available state construction funds to any district for the next succeeding fiscal year shall be decreased by an amount equal to any increased expenditures.

Apportionment of state funds to federal-aid urban highways.

Section 4-314. **Apportionment of state funds to federal-aid urban highways.** (1) Annually, beginning July 1, 1965, and at the beginning of each fiscal year thereafter, the commission shall apportion state construction funds available for matching federal-aid urban funds to the cities in the state over five thousand (5,000) population in the ratio of urban population in each such city to the total urban population in all cities over five thousand (5,000) population in the state.

"Urban population."

(2) For the purpose of this section, "urban population" is defined as population within the incorporated limits of cities over five thousand (5,000) population and

HeinOnline -- 1965 546 1965

that population within unincorporated urban fringe areas delineated and reported in the latest federal census.

(3) To the extent necessary to permit orderly programming and construction of projects, expenditures in any city may exceed the amount apportioned to that city. The amount of any such excess expenditures shall be deducted from future apportionments to that city.

Part 4. **Montana Toll Bridge Authority.**

Montana toll bridge authority.

Section 4-401. **Creation of authority—members—salary—officers—seal.** (1) There is hereby created the Montana toll bridge authority, composed of members of the commission, who shall receive no compensation other than that received as members of the commission.

Creation of authority—members—salary—officers—seal.

(2) The chairman of the commission shall be the chairman of the authority, and the state highway engineer shall be the secretary-treasurer. All contracts, bonds, and other instruments shall be executed in the name of the authority by the chairman and attested by the secretary-treasurer.

(3) The authority shall adopt a seal bearing its name which shall be affixed to such bonds, instruments, and records as the authority or the chairman may direct.

Section 4-402. **Powers of authority.** (1) The authority shall adopt rules and regulations for its own government and for the administration of this part and the execution of the powers and duties hereby conferred.

Powers of authority.

(2) The authority may establish and construct a toll bridge or toll bridges upon any of the public highways of this state, together with approaches, wherever found and determined to be necessary for advantageous, and practicable for crossing any stream or body of water.

(3) The authority may issue toll bridge revenue bonds to pay the cost of any toll bridge.

Section 4-403. **Resolution — estimates of costs.** (1) Whenever the authority finds and determines that the construction of any toll bridge is necessary, advantageous, and practicable, it shall adopt a resolution making such finding and determination and declaring that public convenience and necessity require the construction of the toll bridge.

Resolution—estimates of costs.

HeinOnline -- 1965 547 1965

Preliminary estimates.

(2) The resolution shall contain preliminary estimates of:

(a) The cost of construction.

(b) The amount of money to be raised by the issuance of revenue bonds.

(c) The probable amounts of money, property materials, or labor, if any, to be contributed from other sources in aid of construction.

(3) The authority shall also estimate the costs of maintaining, repairing, and operating the toll bridge, and the revenues to be derived from it.

(4) No toll bridge shall be constructed unless the authority first finds and determines that the probable revenues will be sufficient to pay the costs of maintaining, repairing, and operating it, and to pay the principal and interest on revenue bonds issued to pay its costs.

(5) The failure of the authority to make the estimates required by this section or to make them in proper form shall in no way affect the validity or enforceability of any revenue bonds.

Limitations on placing of toll bridges—petition for exception.

Section 4-404. **Limitations on placing of toll bridges.** (1) No toll bridge shall be authorized or constructed over or across any stream within a radius of fifty (50) miles of either side of any free public bridge existing on that stream unless there shall first have been filed with the authority a petition requesting its construction.

(2) The petition shall be signed by:

(a) Not less than twenty per cent (20%) of the taxpaying freeholders whose names appear on the last completed assessment roll of the county in which the toll bridge is proposed to be constructed; or

(b) Not less than twenty per cent (20%) of the taxpaying freeholders whose names appear on the last completed assessment roll of both counties when the toll bridge is proposed to be constructed upon a stream which constitutes the boundary between two (2) counties.

Contents of petition.

Section 4-405. **Contents of petition.** (1) The petition shall contain a statement showing the location of the proposed toll bridge and the locations of all free public

HeinOnline -- 1965 548 1965

bridges existing upon the same stream within a radius of fifty (50) miles of the proposed toll bridge. It shall also contain a concise statement of facts showing that the proposed construction is necessary, advantageous, and practicable.

(2) Several copies of the petition identical in form may be circulated. Each person circulating a copy must attach his affidavit that the signatures appearing thereon are genuine and that the signers knew the contents at the time of signing.

(3) All copies from each county shall be attached together as to form a single petition. The petition shall have attached to it before it is filed with the authority a certificate of the county clerk and recorder showing whether or not it has been signed by not less than twenty per cent (20%) of the taxpaying freeholders whose names appear on the last completed assessment roll of the county.

(4) The county clerk and recorder shall transmit the petition to the authority.

Action by authority on petition.

Section 4-406. **Action by authority on petition** (1) The authority shall meet and consider the petition within thirty (30) days after it is filed. It shall be the sole judge of the sufficiency of the petition.

(2) If the authority finds that the petition bears the required number of signatures and is in proper form, and finds and determines that the construction of the proposed toll bridge is necessary, advantageous, and practicable, it shall adopt a resolution making that finding and determination. The resolution shall also contain the estimates and data required by section 4-403.

(3) The authority's finding of the sufficiency of the petition shall be conclusive in favor of any innocent holder of bonds issued as a result of the presentation of the petition.

Powers of authority in connection with toll bridge bond issues—issuance and payment.

Section 4-407. **Powers of authority in connection with toll bridge bond issues.** (1) In connection with the issuance and in order to secure the payment of toll bridge bonds, the authority may:

(a) Pledge all or any part of the tolls, income, profit, and revenue of any such toll bridge, and covenant to pay

HeinOnline -- 1965 549 1965

such tolls, income, profit, and revenue into appropriate funds.

(b) Covenant to fix and establish such tolls, rates, and charges as will provide at all times enough funds to:

(i) Pay all costs of operation, maintenance, and repairs of the toll bridge.

(ii) Meet and pay the principal of and interest on all toll bridge bonds as they severally become due and payable.

(iii) Create such reserves for the principal and interest of such bonds and to meet contingencies in operation and maintenance as the authority shall determine.

(c) Make such additional covenants as to tolls, rates and charges as it shall deem necessary to secure the payment of bonds.

(2) No truck, trailer, or automobile licensed in the name of the state of Montana or the United States or any branch or department thereof shall be required to pay for crossing any toll bridge.

Powers of authority in connection with toll bridge bonds issues—special funds.

Section 4-408. **Same.** (1) The authority may create a special fund or funds, in addition to those required by this part, for moneys reserved for principal and interest on bonds and for meeting contingencies in the operation and maintenance of any toll bridge.

(2) It may determine the depositary or depositaries in which such funds shall be deposited and the manner in which such deposits shall be secured. Any bank or trust company incorporated under the laws of this state may act as a depositary and may furnish such indemnifying bonds or pledge such securities as may be required by the authority.

Powers of authority in connection with toll bridge bonds issues—covenants.

Section 4-409. **Same.** (1) The authority may:

(a) Provide for replacement of lost, destroyed, or mutilated bonds.

(b) Covenant against extending the time for the payment of the principal of or interest on any toll bridge bonds, directly or indirectly in any manner.

(c) Prescribe and covenant as to the events of default and terms and conditions upon which any or all toll bridge

HeinOnline -- 1965 550 1965

bonds shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(d) Covenant as to the rights, liabilities, powers, and duties arising upon the breach of any covenant, condition, or obligation.

(e) Vest in a trustee or trustees the right to enforce any covenant made to secure or to pay toll bridge bonds, provide for their powers and duties, limit their liabilities, and provide the terms and conditions upon which the trustee or trustees or the holders or any proportion of them may enforce any such covenant.

(2) The authority may make such covenants and do any and all acts and things necessary or convenient or desirable in order to secure toll bridge bonds or to make them more marketable, notwithstanding that such covenants, acts or things may not be enumerated or expressly authorized. The legislative assembly intends to grant to the authority power to do all things in the issuance of toll bridge bonds and in providing for their security that may not be inconsistent with the constitution.

Toll charges—fixing—expiration.

Section 4-410. **Toll charges—fixing—expiration.** (1) The authority may fix and change rates of toll and other charges for all toll bridges built under the provisions of this part. The rates and charges shall at all times be fixed at rates which will yield sufficient annual revenue to pay annual operating and maintenance expenses, to redeem and pay the principal of and interest on all bonds as they severally come due, and to create such reserves as the authority shall deem necessary.

(2) All tolls and other revenue shall constitute a trust fund for the security and payment of toll bridge bonds. They shall not be pledged for any other purpose as long as any of the bonds are outstanding and unpaid.

Revenue fund—sinking funds.

Section 4-411. **Revenue fund—sinking fund.** (1) The authority shall adopt rules and regulations for the collection of tolls and the deposit thereof to the credit of the appropriate toll bridge revenue fund, and for the transfer therefrom to the appropriate sinking fund of money for the payment and redemption of bonds as they severally mature.

HeinOnline -- 1965 551 1965

(2) The money remaining in each separate toll bridge revenue fund after providing the amount required for interest and redemption of bonds shall be held and applied in accordance with the proceedings relating to the authorization of the bonds.

Construction.

Section 4-412. **Construction.** Whenever funds are available for the construction of any toll bridge, the commission shall let contracts by competitive bidding, after such notice and upon such terms as it shall prescribe.

State highway engineer—duties.

Section 4-413. **State highway engineer — duties.** The engineer shall have full charge of the construction, operation, and maintenance of all toll bridges authorized by the authority. Under the supervision of the authority, and subject to its rules and regulations, the engineer shall have charge of the collection of all tolls.

Annual statement —records.

Section 4-414. **Annual statement—records.** (1) The engineer shall keep full and complete accounts for each toll bridge constructed. Each year he shall cause to be prepared and filed in the office of the secretary of state a balance sheet and income and profit and loss statement showing the financial condition of each toll bridge.

(2) All books, records, and papers relating to toll bridges shall at all reasonable times to be open to the inspection of any citizen of the state.

Limitations on building bridges near toll bridges.

Section 4-415. **Limitations on building bridges near toll bridges.** So long as any of the bonds issued for the construction of any toll bridge are outstanding and unpaid, there shall not be erected, constructed, or maintained any other bridge for public use over or across the stream upon which the toll bridge is located within a distance of twenty (20) miles on either side of the toll bridge. This prohibition does not apply to bridges in existence and being used at the time of the issuance of such bonds.

Payment of bonds —free bridge.

Section 4-416. **Payment of bonds—free bridge.** When the bonds issued for the purpose of paying the cost of any toll bridge are retired, the cost of construction having thereby been repaid in full, the bridge shall thereafter be maintained and operated by the commission as a free bridge. The expense of any surveys and reports paid from the funds of the commission shall then be deemed fully repaid.

HeinOnline -- 1965 552 1965

CHAPTER 5. COUNTY ADMINISTRATION.

County administration.

Part 1. Board of County Commissioners Responsibility for County Roads.

Board of county commissioners responsibility—county roads.

Section 5-101. **Powers and duties of county commissioners respecting county roads.** (1) Each board of county commissioners shall have general supervision over the county roads within the county. The board may, in its discretion, divide the county into suitable road districts, and place each district in charge of a competent road supervisor. The board shall order and direct each supervisor in the work to be done in his district. If the board does not divide the county into districts, the county itself shall constitute one road district.

Powers and duties of county commissioners—county roads.

(2) Each board shall cause to be surveyed, viewed, laid out, recorded, opened, worked, and maintained such county roads as are petitioned for by freeholders. Guideposts shall be erected.

(3) Each board shall discontinue or abandon county roads when freeholders properly petition therefor.

(4) Each board may, in its discretion, cause to be done whatever may be necessary for the best interest of the county roads and the road districts.

(5) Each board shall make such reports relating to roads under its supervision as may be requested by the commission.

Section 5-102. **Same—right of way—contracts—control of traffic.** (1) Each board shall contract, agree for, purchase, or otherwise lawfully acquire right of way for county roads over private property. It may institute proceedings under sections 93-9901 - 93-9926, paying for such right of way from the county road fund. Cattle guards, appurtenances, and gates may be constructed and maintained adjacent to county roads.

Same—right of way—contracts—control of traffic.

(2) Subject to the limitations and restrictions provided in the Codes for the letting of contracts, each board may let by contract the construction, maintenance and improvement of county roads, and the construction, maintenance, or repair of bridges when the amount of work to be done exceeds the sum of one thousand dollars ($1,000).

(3) Subject to the limitations and restrictions provided in the constitution and Codes, each board may

HeinOnline -- 1965 553 1965

issue bonds upon the faith and credit of the county for the construction or improvement of county roads, state highways, and bridges.

(4) Each board may, in its discretion, limit or forbid, temporarily, any traffic or class of traffic on the county roads or any part thereof, when it is necessary in order to preserve or repair such roads.

Same—surveyor —employees.

Section 5-103. **Same—surveyor—employees.** (1) Each board may, in its discretion, order the county surveyor, or some other surveyor if the county surveyor is incompetent,, to prepare suitable plat books. Each board shall have recorded therein with the county clerk a full description of each county road, showing each course by bearing and distance, a full and complete map thereof, and a record of all proceedings with reference thereto.

(2) Each board may, in is discretion, employ a competent road supervisor, who shall serve during the pleasure of the board. Under the direction and control of the board he shall:

(a) Prescribe the times and places for all work to be done on the county roads.

(b) Report any delinquency or inefficiency of any person employed on any road.

(c) Perform such other duties as may be prescribed by the board.

(3) In any county in which the county surveyor is not paid an annual salary, he may by agreement be employed by the board to perform the services of road supervisor. He shall not be paid for any duty otherwise required by law to be performed by him as county surveyor.

(a) Nothing in this section shall be construed to alter or repeal the provisions of sections 5-308 and 5-309 of this chapter.

(4) Each board may appoint a county road superintendent. He shall have such duties, powers, and responsibilities as are set forth in part 3 (b) of this chapter.

Same—contracts with state or federal agency.

Section 5-104. **Same—contracts with state or federal agency.** Whenever construction of farm to market, secondary, or feeder roads is to be financed in whole or in

HeinOnline -- 1965 554 1965

part by federal funds, and the United States secretary of commerce shall affirmatively find that some method other than competitive bidding is in the public interest, each board may:

(1) Enter into and contract jointly or independently with either the commission, the bureau of public roads, or any other federal agency to:

(a) Acquire rights of way.

(b) Survey and construct such roads.

(c) Do any other thing essential and practical in securing such roads by force account, unit price, or otherwise.

Inspection of roads and construction work—compensation.

Section 5-105. **Inspection of roads and construction work—compensation.** (1) The board may direct the county surveyor or some member or members of the board to inspect the condition of any road. It may direct such persons to inspect any work, being done under contract or otherwise, which is under the direction, supervision, or control of the board. Such inspections may be made before any work is commenced, during its progress, or after completion and before payment.

(2) The person or persons making such inspections shall receive the sum of fifteen dollars ($15) per day and actual expenses. The claims shall be audited and allowed in the same manner as other claims against the county.

(3) Proper minute entries of such inspections must be made by the surveyor or board member or members at the next regular meeting of the board.

Same—purchase of machinery and materials.

Section 5-106. **Same—purchase of machinery and materials.** (1) Out of the county road fund, each board may:

(a) Purchase and operate grading and other machinery necessary or desirable for the improvements of the county roads.

(b) Acquire deposits or quarries of suitable road-building material by purchase, condemnation, or lease.

(2) Each board may also acquire such road-building material by gift.

(3) Any crushed rock or gravel not directly used or needed by the county in the construction, repair, or main-

HeinOnline -- 1965 555 1965

tenance of its roads, may be sold by the board at not less than actual cost of production to any person, firm, or corporation desiring to use it upon any public street or highway in the county. The proceeds of any such sale shall be paid into the county road fund.

Same—use of county road machinery.

Section 5-107. **Same—use of county road machinery.** Each board may, in its discretion, authorize and permit the use of any county highway or road machinery or equipment when not in use in any district, in connection with the construction, repair and maintenance of streets, avenues and alleys within any incorporated city or town of four thousand (4,000) population or less located in the county.

Width of road.

Section 5-108. **Width of road.** (1) The width of all county roads, except bridges, alleys, or lanes, must be sixty (60) feet unless a greater or smaller width is ordered by the board on petition of an interested person.

(2) The width of all private highways and byroads, except bridges, must be at least twenty (20) feet.

(3) Nothing in this section shall be construed as increasing or decreasing the width of either kind of highway or road already established or used as such.

Highways to follow subdivision or section lines.

Section 5-109. **Highways to follow subdivision or section lines.** County roads must be laid out and opened when practicable upon subdivision or section lines. However, when public purposes shall be best served thereby, roads may be laid out in diagonal lines.

Auto passes excluding livestock.

Section 5-110. **Auto passes excluding livestock.** Where a county road connects with a state or federal highway which is fenced on both sides, the board may construct and maintain extensions of the fence across the right of way of the intersecting county road. The board shall construct a pass which will permit passage of vehicles but will prevent loose livestock from passing onto the state or federal highway. In the extensions of the fence, there shall be maintained a gate to permit the passage of livestock and vehicles.

Same—on county roads.

Section 5-111. **Same—on county roads.** Each board may construct on county roads passes which shall permit the travel of vehicles but which shall prevent the passage of loose livestock. Where necessary, gates shall be main-

HeinOnline -- 1965 556 1965

tained to permit the passage of livestock. Such passes may be removed when, in the judgment of the board, the need therefor no longer exists.

Limit on amount expended in road district.

Section 5-112. **Limit on amount expended in road district.** The expenditures in any road district for labor and equipment, together with the compensation to be paid to the supervisor, shall not exceed the sum apportioned quarterly by the board to that district. However, if that sum is not sufficient, the board may appropriate any amount from the county road fund necessary for the use of such district. The full amount of all road taxes collected in remote districts shall be expended annually by the county commissioners on the roads within such districts.

Reseeding of right of way areas.

Section 5-113. **Reseeding of right of way areas.** (1) Whenever the natural sod cover on right of way areas is disturbed by construction of county roads, irrigation ditches, drain ditches, or otherwise, the board shall require that such disturbed areas be seeded to an adaptable perennial grass or combination of perennial grasses and legumes. Every effort shall be made to establish a sod cover on the disturbed area.

(2) All seed used shall meet certified standards.

(3) Time and method of seeding, fertilizing practices, and grass species shall be those recommended by the Montana extension service.

County supervisors to control weeds and exterminate weed seeds—charges.

Section 5-114. **County supervisors to control weeds and exterminate weed seeds—charges.** The board of weed control and weed seed extermination supervisors shall control noxious weeds on the county roads. If the commission does not control noxious weeds on state and federal highways in any county, the supervisors shall control them. Upon presentation by the supervisors of a verified account of the expenses incurred, the costs thereof shall be paid by the commission.

Board and others to furnish information.

Section 5-115. **Board and others to furnish information.** The board and road supervisor of any county, and all other officers who may have the care and supervision of the public highways and bridges, shall, upon the written request of the commission, furnish all available information in connection with the construction and main-

HeinOnline -- 1965 557 1965

tenance of the highways and bridges in their respective districts or counties.

Board of county commissioners responsibility—bridges and ferries.

Part 2. **Board of County Commissioners Responsibility For Bridges and Ferries.**

County to maintain bridges.

Section 5-201. **County to Maintain Bridges.** Each board shall maintain all public bridges other than those maintained by the commission.

Bridges over streams in cities and towns.

Section 5-202. **Bridges Over Streams in Cities and Towns.** (1) Each board shall construct and maintain every bridge over a natural stream necessary to be constructed and maintained in any city or town.

(2) The city or town in which any such bridge is situated shall pay the whole or such part, not less than one-half (½), to be determined by the board, of the cost of planking, replanking, paving or repaving the bridge. The city or town shall construct and maintain in good repair the bridge approaches.

Election to determine question of construction—bonds—special levy.

Section 5-203. **Election to Determine Question of Construction — Bonds — Special Levy.** (1) Before undertaking the construction of any bridge the cost of which shall exceed ten thousand dollars ($10,000), in any city or town, the board shall submit to the qualified electors of the county, at a general or special election, the question of whether the bridge shall be constructed and its cost paid by the county.

(2) If the electors vote in favor of construction, the board may issue and sell bonds of the county to the amount authorized for the construction of the bridge. Bonds shall be issued under such regulations as apply to other bonds of the county.

(3) The bridge shall be constructed using the proceeds of such sale.

(4) If the cost of the bridge does not exceed the amount authorized to be raised by a special tax, it may be levied as provided in section 7-104 of this Code.

Removal of obstructions and repair of bridges.

Section 5-204. **Removal of Obstructions and Repair of Bridges.** (1) Whenever any county road becomes obstructed, or any bridge needs repair or becomes dangerous for the passage of vehicles or persons, the board or the county surveyor, if he is in charge, shall remove the

HeinOnline -- 1965 558 1965

obstruction or repair the bridge, upon being notified thereof.

(2) Nothing in this section shall be construed as holding the board, or any member, responsible or liable for anything other than willful, intentional neglect or failure to act.

Bridges under control and management of board—police regulations.

Section 5-205. **Bridges Under Control and Management of Board—Police Regulations.** (1) The board shall manage and control all bridges referred to in this part. It shall direct the method and time of making repairs, planking, replanking, paving and repaving.

(2) The board may also make repairs to stream beds and watercourses and the banks thereof when any bridge is in danger of being damaged or lost because of erosion or changes in the beds or banks.

(3) Such bridges and all persons on them shall be subject to the reasonable police regulations of the city or town in which any such bridge is situated.

Construction and maintenance of bridges crossing county lines.

Section 5-206. **Construction and Maintenance of Bridges Crossing County Lines.** Bridges crossing the line between counties shall be constructed and maintained by the counties into which the bridges reach. Each county shall pay such portion of the costs of construction and maintenance as shall have been previously agreed upon by the respective boards.

Ferries uniting two counties—report of ferrymen on joint ferries.

Section 5-207. **Ferries Uniting Two Counties—Report of Ferrymen on Joint Ferries.** (1) When a public ferry, if constructed would unite two counties, the boards may act jointly to construct, maintain, and operate it. Each county shall acquire and maintain its own landings and approaches.

(2) When ferrymen are employed on joint ferries, they shall report quarterly to each board, giving such information as each board may require.

Part 3. **County Road Superintendent.**

County road superintendent—appointment and compensation.

Section 5-301. **County Road Superintendent — Appointment and Compensation.** (1) After his appointment, the county road superintendent shall serve at the pleasure of, and under the direction and control of the board. He shall file with the county clerk the customary

HeinOnline -- 1965 559 1965

oath of office and a bond approved by the board for the faithful performance of his duties.

(2) He shall receive such compensation as is determined by the board.

Duties of county road superintendent.

Section 5-302. **Duties of County Road Superintendent.** (1) Under the direction and supervision of the board, the superintendent shall furnish plans and specifications for highway or bridge work. He shall be chairman of all boards of road viewers.

(2) Under such direction and supervision, he shall also:

(a) Take charge of all roads, bridges and causeways under the jurisdiction of the county.

(b) Open all new roads when they are duly established and ordered to be opened by the board.

(c) Perform at the time and in the manner directed by the board whatever shall be lawfully directed by the board concerning the public highways under the jurisdiction of the county.

Same—accounts and statements.

Section 5-303. **Same—Accounts and Statements.** The superintendent shall keep correct accounts of all labor performed, equipment and implements used, and materials furnished. He shall give to each person performing work, or furnishing equipment, implements, or materials a certificate stating the work performed and the price to be paid therefor.

Examination of superintendent's report—warrant for claims.

Section 5-304. **Examination of Superintendent's Report—Warrant For Claims.** At the first monthly or quarterly meeting held after filing of the superintendent's report, the board shall examine it. Upon the presentation of any certificate issued by the superintendent, and verification of it by the holder, as in other cases of claims against the county, the board shall cause to be issued a warrant for the amount of the certificate drawn on the treasurer against the county road fund.

Equipment, tools, and implements for use of superintendent.

Section 5-305. **Equipment, Tools, and Implements For Use of Superintendent.** Upon the requisition of the superintendent, the board shall furnish any equipment, tools, and implements necessary, and pay for them out of the county road fund. The superintendent shall pre-

HeinOnline -- 1965 560 1965

serve the equipment, tools, and implements, and shall not allow them to be used except on public highways. At the expiration of his term of office, or upon his removal therefrom, he must turn over all equipment, tools, and implements to his successor or to the board.

Employment of laborers.

Section 5-306. **Employment of Laborers, Hiring of Equipment, Etc.** Whenever it is necessary, the superintendent may employ suitable laborers, hire equipment and implements, and contract as to the wages and prices to be paid. Wages and prices shall not exceed rates established by the board for an eight-hour day.

Construction of drains and ditches—penalty for obstructions.

Section 5-307. **Construction of Drains and Ditches—Penalty For Obstructions.** (1) The superintendent may open or construct drains and ditches for making and preserving roads and highways, doing as little injury as may be possible to the adjoining land.

(2) Any person who stops or obstructs any drain or ditch so constructed forfeits the sum of fifty dollars ($50), to be recovered by the superintendent or board in a civil action in any court of competent jurisdiction.

(3) Any person aggrieved by the act of the superintendent may make a written complaint to the board, which if it finds the complaint valid, may pay damages out of the county road fund.

Local improvement districts.

Part 4. **Local Improvement Districts.**

Duty of board to construct roads and levy assessments.

Section 5-401. **Duty of Board to Construct Roads and Levy Assessments.** (1) Upon proper petition, as hereinafter provided, the board shall cause county roads to be laid out, opened, constructed and improved.

(2) The board shall levy and cause to be collected an assessment upon all parcels of land specifically benefited by the laying out, opening, construction, or improvement for paying the costs thereof.

(3) The assessment shall be a first lien upon the land liable, prior and superior to all other liens and encumbrances.

(4) The board shall provide for the payment of assessments either on the immediate payment plan or by installments.

(5) The board shall issue local improvement district bonds and coupons for each installment.

HeinOnline -- 1965 561 1965

Petition for construction or improvement of road.

Section 5-402. **Petition For Construction or Improvement of Road.** (1) A petition for laying out, opening, constructing, or improving a county road may be presented to the board by the owners of two-thirds (2/3) of the lineal feet of land fronting on the proposed or existing road.

(a) If any such land stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator, or guardian shall be equivalent to the signature of the owner.

Petition to set forth.

(2) The petition must set forth:

(a) That the petitioners are such owners and that they desire the petitioned action.

(b) The kind and nature of the improvement desired.

Payment.

(c) The mode of payment of the assessments to be levied for defraying the cost thereof.

(d) The portion of the costs which the district, if formed, will assume and pay.

(i) It must not be less than thirty-five per cent (35%) of the costs, and may be as much as seventy-five per cent (75%) thereof.

Resolution of public interest.

Section 5-403. **Resolution of Public Interest.** Upon receipt of the petition, the board shall pass a resolution that the public interest demands the laying out, opening, constructing or improving of the road, or part thereof, described in the resolution. The description shall not include any portion of any road within the boundaries of any city or incorporated town.

Proceedings upon receipt of petition.

Section 5-404. **Proceedings Upon Receipt of Petition.** (1) After receipt of the petition and passage of the resolution, the board shall make an order fixing a time and place in the vicinity of the road for a meeting between the county road superintendent or his deputy and the petitioners and all owners upon whose lands special assessments will be levied.

Notice.

(2) The county clerk shall immediately notify the county road superintendent of the meeting and shall cause a notice thereof to be printed in the newspaper published nearest to the vicinity of the road. The notice

HeinOnline -- 1965 562 1965

shall be published for three (3) consecutive weeks prior to the time of the meeting.

(3) The notice shall state the time and place of the meeting, and in general terms the kind of construction or improvement sought, and the places of beginning, intermediate points and termination.

Proceedings at meeting.

Section 5-405. **Proceedings at Meeting.** (1) The petitioners and all owners of land fronting on the road or land owned within two miles on either side of it upon which special assessments will be levied may meet with the superintendent or his duly appointed deputy.

(2) The superintendent or his deputy, or, in their absence one of the landowners present, shall preside. Those present shall elect three as a committee of supervisors; at least one of them shall be a petitioner.

(a) A majority of the owners present and voting shall be sufficient for election. The presiding officer shall certify to the board the names of the owners elected to the committee.

(3) Those elected shall qualify immediately by taking an oath that they are owners of land benefited by the improvements and to be included within the local assessment district. They shall take an oath that they will fully, impartially, and faithfully perform their duties as supervisors.

(4) The superintendent or his deputy may administer the oath, or it may be administered by anyone so authorized by law.

Duties of committee and road superintendent.

Section 5-406. **Duties of Committee and Road Superintendent.** (1) The committee and the surveyor or his deputy shall:

(a) Immediately view, examine, and survey the road petitioned for.

(b) Examine and determine the lands which will be specially benefited by the road and which should be included within the district that is to be assessed.

(c) Ascertain whether any damage or injury to property will be sustained by or in consequence of the making of the road.

HeinOnline -- 1965 563 1965

(d) Obtain, if possible, without cost the release in writing of each person of his claim for such damage or injury.

(e) Arrange, when necessary, for a release to be given for such amount as may be fair and reasonable.

(2) The road superintendent shall without delay prepare plans and specifications and cost estimates. He shall prepare a plat and description of the local assessment district and a description of the parcels of land included in the district. The valuation of the lands shall be that which appears on the last annual assessment-roll of the county for the levying of general taxes.

Report of county road superintendent—order creating district.

Section 5-407. **Report of County Road Superintendent—Order Creating District.** (1) At the next annual meeting of the board after the road superintendent has completed surveying the road and making estimates, he shall make a detailed report.

(a) The report shall state that the maps, descriptions, plans, specifications, and details and estimates of damages, costs, and expenses have been completed.

(2) The whole amount of damages, costs and expenses shall not exceed fifty per cent (50%) of the total assessed valuation of the parcels of land in the district, as determined from the last annual assessment roll of the county. If it does not, the board shall make and enter upon the report an order that the road be made.

(3) That order shall create the local improvement district to be known and designated as local improvement district No..... in .....county, Montana. Copies of the report shall be kept in the offices of the board and road superintendent.

Sharing of costs—order of board.

Section 5-408. **Sharing of Costs—Order of Board.** The board may enter an agreement to share costs with the district when the petition presented states the proportion which the district will pay. After such an agreement has been made, specifying the amount to be paid by the district and the amount to be paid from county funds, the board shall make an order to that effect on the records of its proceedings.

Payment of county's share of expense.

Section 5-409. **Payment of County's Share of Expense.** The board shall order paid from county funds the share

HeinOnline -- 1965 564 1965

of the county for construction or improvement of the road. However, payment shall not exceed sixty-five per cent (65%) of the cost. This amount shall be a proper charge against the county and shall be paid by the treasurer upon warrants duly drawn as ordered by the board.

Formation and boundaries of district.

Section 5-410. **Formation and Boundaries of District.** (1) The boundaries of each local assessment district shall be fixed as follows:

(a) The lands extending from the center of the road one-half (½) mile on each side thereof [measuring one (1) mile in width] shall constitute "Part One" of the district.

(b) The lands embraced within an area one (1) mile wide on each side of Part One shall constitute "Part Two" of the district.

(c) The lands embraced within an area one (1) mile wide on either side of Part Two shall constitute "Part Three" of the district.

(2) Each of the parts shall extend the full length of the proposed road and one mile beyond the terminus unless the committee shall otherwise provide.

Assessment of lands in each part—lien.

Section 5-411. **Assessment of Lands in Each Part—Lien.** (1) Each separate parcel of land in Part One shall be assessed for its proportion of forty-five per cent (45%) of the whole cost payable by the district.

(2) Each separate parcel of land in Part Two shall be assessed for its proportion of thirty-five per cent (35%) of the cost.

(3) Each separate parcel of land in Part Three shall be assessed for its proportion of twenty per cent (20%) of the cost.

(4) All of the lands in each part shall be subject to a lien for all of the assessments of that part until they have been paid.

Method of assessment.

Section 5-412. **Method of Assessment.** (1) The assessments upon the parcels of land in each part shall be made ratably according to the front-foot plan, as follows:

(a) The unit used to determine the proportion of assessment shall be one foot of longitude measured along

HeinOnline -- 1965 565 1965

the road constituting the center of the district and extending latitudinally across the part.

(b) Because units in each part may not be equal, assessment rates for each part shall be determined for eight hundred eighty (880) square feet of surface.

(2) If the areas of the parts are not equal, the rates fixed for parts one, two, and three shall be related to each other as are the numbers forty-five (45), thirty-five (35) and twenty (20), respectively.

Appointment of inspector—compensation of inspector and committee.

Section 5-413. **Appointment of Inspector—Compensation of Inspector and Committee.** (1) The committee and road superintendent together shall appoint some suitable and competent person other than they to act as an inspector of the work. He shall be upon the work at all times during its progress and inspect the performance thereof. He shall report to and be under the supervision of the superintendent.

(2) He shall be paid for his services as inspector at the rate of five dollars ($5) per day for the time he is actually engaged thereon.

(3) Each supervisor shall be paid the sum of three dollars ($3) per day for the time the committee is actually engaged in meeting and acting with the superintendent and in transacting the business of the district. No mileage or other expense money shall be paid.

Construction by county—lien.

Section 5-414. **Construction by County — Lien.** (1) If bids for construction and improvement are rejected by the committee, the district may contract with the board to construct or improve the road.

(2) Roads in districts may be constructed and improved in the first instance at the entire expense of the county, and the county may, as far as practicable, take the place of a private contractor.

(3) When the county has paid for construction and improvements, it shall be recompensed for by the district in accordance with their agreement. If bonds were issued under the installment plan, they shall become the property of the county.

(4) The county shall have the same lien as if the contract had been let to a private contractor.

HeinOnline -- 1965 566 1965

Apportionment of costs—assessment-roll—contents.

Section 5-415. **Apportionment of Costs—Assessment-Roll—Contents.** (1) When the order for improvement and construction has been made by the board, the committee and the county assessor shall apportion the estimated cost and expenses to the land in the district.

(2) Within thirty (30) days before the letting of the contract, the assessor shall report to and file with the board and the treasurer an assessment-roll in duplicate. It shall contain the description of each parcel of land to be assessed, the amount to be assessed against it, and the name of the owner, if known. In no case shall a mistake in the name of the owner be fatal to the assessment when the description of the land is correct.

Notice—confirmation—errors.

Section 5-416. **Notice — Confirmation — Errors.** (1) As soon as the assessment-roll is reported and filed, the board shall publish notice for three consecutive weeks in the newspapers in which notice of invitations for bids for the contract was published. The notice shall notify all persons interested that the assessment-roll has been filed, and require them to appear at the office of the board at the county seat at a time not less than fifteen (15) days from the date of the last publication of the notice to make objections.

(2) At the time fixed, the board and the assessor shall meet. If no objections have been filed, the board shall make an order confirming the assessment-roll. If written objections, properly verified, have been filed, the board shall hear the objections, receiving any testimony from any party involved.

Correction of errors—lien.

Section 5-417. **Correction of Errors—Lien.** (1) After the hearing, the board shall make such corrections as appear just to apportion the assessment to the benefit to be received. It shall then make and enter an order approving and certifying the assessment-roll.

(2) With the aid of the assessor, the board shall levy and assess the amounts on the assessment-roll against the parcels of land, or parts thereof.

(3) The assessment so made shall be a first lien on the land described in the assessment-roll.

Modes of payment of assessment.

Section 5-418. **Modes of Payment of Assessment.** The petition shall state whether the landowners want to

HeinOnline -- 1965 567 1965

make payment by the mode of "immediate payment" or by payments in installments. Installment payments shall be made in six equal portions, in one (1), two (2), three (3), four (4), five (5), and six (6) years. Payments shall be in the form of bonds which shall draw six per cent (6%) interest per annum from the date they are issued until they are paid.

Immediate payment—notice to landowners.

Section 5-419. **Immediate Payment—Notice to Landowners.** (1) If immediate payment is chosen, the board shall deliver the assessment-roll to the county clerk as soon as it has been proved and certified. The clerk shall file a duplicate in his office and immediately deliver the other to the treasurer.

(2) The treasurer shall publish a notice for two consecutive weeks in the newspapers in which the notice for bids was advertised and shall mail a copy of the notice to the owners of the land assessed, when the name and post office address of the owner are known.

(a) Failure to mail notice shall not be fatal to the assessment when it has been published.

Contents of notice.

Section 5-420. **Contents of Notice.** The notice shall state the following: (1) The assessment-roll has been certified to the treasurer for collection.

(2) Unless payment is made within thirty (30) days from the date of the notice, the payment will become delinquent and shall bear interest at the rate of ten per cent (10%) per annum.

(3) If the assessment is not paid before it becomes delinquent, a penalty of five per cent (5%) shall be added, as well as the interest on the annual tax roll for the current year.

(4) The interest and penalty shall be collected, together with such additional charges as are authorized to be charged and collected on other delinquent taxes.

(5) The land assessed shall be sold for the amount of the assessment with interest, penalty, and costs, in the manner and with the same authority as lands are sold for general taxes.

Installment payment procedure—county treasurer to collect.

Section 5-421. **Installment payment procedure—county treasurer to collect.** (1) If the mode of payment is to be by installments, the board and the committee shall approve and certify the assessment-roll.

HeinOnline -- 1965 568 1965

(2) The board and the assessor shall, at the time of levying the assessment, in their order setting the levy, declare that the sum charged against each parcel of land may be paid in equal annual installments with interest upon the whole sum at the rate of six per cent (6%) per annum. The order shall specify the number of installments which shall be equal to the number of years for which the bonds may run.

(3) Each year thereafter, the treasurer shall collect one of the installments together with the interest due thereon and the interest due on the installments thereafter to become due.

(4) Provisions concerning delinquency and the sale of land set forth with relation to the mode of immediate payment shall be likewise applicable to installment payments.

Board provides method of payment.

Section 5-422. **Board provides method of payment.** When improvement is ordered upon a petition specifying that method of payment of bonds, the board shall provide that the payment of costs and expenses be made under the provisions of this part by bonds charged against the lands in the district. The bonds may be issued to the contractors in payment or costs may be paid by the proceeds of the bonds to be issued and sold as hereinafter provided. In all other cases, the board may so provide.

Order for issuance of bonds—form and contents.

Section 5-423. **Order for issuance of bonds—form and contents.** (1) The board shall make and enter an order authorizing and directing the issuance of bonds payable not more than ten years after the date of issuance.

(2) Each bond shall provide that the holder shall not demand payment until it comes due. It shall bear interest at the rate of six per cent (6%) per annum, payable annually, and shall have interest coupons for each interest payment attached.

(3) Each bond and coupon shall bear the date of issuance and be made payable to bearer. Each bond shall be signed by the chairman of the board and attested by the county clerk. The seal of the board shall be affixed to each bond.

(4) Bonds shall be issued in denominations of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000).

HeinOnline -- 1965 569 1965

(5) Each bond shall contain a reference to the district for which it is issued and to the order and record authorizing the issue. It shall state that it is payable only out of the local improvement funds, created by special assessment, and not otherwise.

(6) On its face, each bond shall bear the designation of the district: "Local Improvement District No..... in.....county, Montana."

(7) No bond shall be issued in excess of the costs and expenses of the improvements and construction.

Notice in case of payment by special bonds—contents.

Section 5-424. **Notice in case of payment by special bonds—contents.** (1) If the board provides that payment of costs shall be made by the issuance of bonds, the treasurer shall publish notice for two consecutive weeks and mail a copy of the notice in the same manner as is provided with relation to immediate payment.

(2) The notice shall state that:

(a) The assessment-roll has been certified to the treasurer for collection.

(b) Unless payment of the whole amount of the assessment is made within thirty (30) days from the date of the notice, special bonds shall be issued against the lands in the district for the payment of the assessment.

(c) If the bonds are issued, they will be payable in annual installments with interest thereon at the rate provided in the bonds.

Payment of assessment—redemption by payment.

Section 5-425. **Payment of assessment—redemption by payment.** (1) At any time within thirty (30) days after notice, the owner may pay the assessment and release and discharge his lands therefrom and from the operation and effect of the bonds.

(2) No bonds shall be issued until twenty (20) days after the expiration of thirty (30) days after notice. No bonds shall be issued for any assessment paid in full within the thirty (30) days.

(3) The owner of lands may redeem them from all liability for assessment at any time after the thirty (30) days by paying all of the assessment remaining unpaid, together with interest and all charges thereon to the date of maturity of the installment next falling due.

HeinOnline -- 1965 570 1965

(4) All payments shall be made to the treasurer, who shall apply them solely to the costs of the improvement or construction.

Issuance of special bonds to contractor —or sale.

Section 5-426. **Issuance of special bonds to contractor —or sale.** Bonds ordered sold by the board may be issued to the contractor constructing the improvement in payment. The board may also direct, in the order providing for issuance of the bonds, that they be sold by the treasurer at not less than par value and accrued interest. The proceeds of such bonds shall be applied in payment of the costs and expenses of the improvement.

Payment of interest— retirement.

Section 5-427. **Payment of interest — retirement.** (1) The treasurer shall pay the interest on the bonds out of the funds of the district collected on assessments for the bonds.

(2) Whenever there is money in the fund against which the bonds have been issued over and above the amount sufficient for the payment of interest on all unpaid bonds, it shall be used to pay the principal on one or more of the bonds. The treasurer shall call in and pay the bonds in their numerical order.

Call to state.

(3) The call shall be published in the county official newspaper on the day following the maturity date of the installment of assessment, or as soon thereafter as practicable. It shall state that special bonds No..... (giving the serial number or numbers of the bonds called) of the district will be paid on the day the next interest coupons become due. Interest upon the bonds thus called shall cease upon that date.

Collection of assessments by suit of owner of bonds.

Section 5-428. **Collection of assessments by suit of owner of bonds.** (1) If the treasurer fails, neglects, or refuses to pay bonds or to collect promptly any assessments when due, the owner of any bonds may proceed in his own name to collect the assessments and to foreclose the lien in any court of competent jurisdiction. In addition to the amount of the assessments and interest thereon, any such owner shall recover five per cent (5%) of the costs of his suit.

(2) Any number of holders of bonds for any single district may join as plaintiffs, and any number of owners of land on which the bonds are a lien may be joined as defendants.

HeinOnline -- 1965 571 1965

(3) Neither the holder nor any owner of any bond shall have any claim against the county through which the bond is issued except for the assessment. His remedy in case of nonpayment shall be confined to the enforcement of the assessments.

(4) A copy of this section shall be plainly written, printed, or engraved on each bond.

Auditing and payment of claims and accounts.

Section 5-429. **Auditing and payment of claims and accounts.** (1) The committee shall approve and certify all claims and accounts for services and every kind of expense payable from funds of the district.

(2) The county auditor, or the county clerk in any county which has no auditor shall then audit all such claims and accounts. Thereafter he shall issue to the treasurer an order in favor of the person to whom the claim or account is payable to pay it.

(3) Upon presentation of the order by the person to whom it was issued, or his assignee, the treasurer shall pay it from the funds of the district.

Estimates of work completed—payment therefor.

Section 5-430. **Estimates of work completed—payment therefor.** (1) The surveyor with the approval of the committee shall make estimates of the proportion of the work completed. After auditing, the estimates may be paid by the treasurer to an amount not exceeding eighty percent (80%) during the progress of the work.

(2) If the assessment is payable by installments, the treasurer shall pay the order only from such assessments as shall have been collected prior to the issue of the bonds and from the proceeds of the sales of the bonds after issue.

(3) If the board has ordered that the contractor shall receive bonds in payment, the order for payment shall call for bonds instead of money. The treasurer shall deliver the bonds, dating them the day he delivers them to the contractor. Interest shall run therefrom.

(4) Amounts collected on installment payments of assessments shall be reserved and disbursed by the treasurer for the payment of principal and interest and for the redemption of such bonds.

Disposition of residue of funds.

Section 5-431. **Disposition of residue of funds.** (1) After the payment of the whole cost of construction or

HeinOnline -- 1965 572 1965

improvement, any money remaining in the county treasury which belongs to the district shall be refunded on demand. A rebate therefrom shall be made on demand to any person who shall not have paid his assessment in full.

(2) Demand shall be made within two (2) years from the date upon which the assessment became due.

(3) Any such money remaining in the county treasury after the expiration of two years for which no demand has been made shall go into the general funds.

CHAPTER 6. STATE FINANCE.

State finance. Fees, time for payment, expiration, disposition.

Part 1. Fees: Time for Payment, Expiration, Disposition.

Time for payment of fees—half fee after July 1st.

Section 6-101. **Time for payment of fees — half fee after July first.** A person who owns a motor truck, truck-tractor, trailer, semitrailer, bus, or new passenger motor vehicle and operates it upon the highways of the state shall, at the time he makes application for license as provided in section 53-114, pay any additional fees prescribed in this chapter. A person who makes application for license after the first day of July of any year shall pay one-half (½) of those fees.

Expiration date.

Section 6-102. **Expiration date.** The fees paid hereunder for every motor truck, truck-tractor, trailer, semitrailer, bus or automobile shall expire on December 31 of each year. Any certificate, registration, or license issued shall be valid only for the period for which issued.

License not transferable.

Section 6-103. **License not transferable.** The certificate, registration or license issued hereunder is transferable only upon transfer of title or interest of the legal owner. It is not transferable to another vehicle. However, if a vehicle is destroyed from any cause, the commission may permit transfer to a replacement vehicle. If a smaller vehicle is purchased, there shall be no refund.

Disposition of fees collected by county treasurer.

Section 6-104. **Disposition of fees collected by county treasurer.** At the time of collecting the fees hereinafter provided for, each county treasurer shall retain five per cent (5%) of the fees so collected for the cost of administration. The remaining ninety-five per cent (95%) shall be remitted monthly to the state treasurer for deposit to the credit of the commission. Such remittance shall be

HeinOnline -- 1965 573 1965

made on forms furnished to the county treasurer by the commission.

Deposit of state highway moneys.

Section 6-105. **Deposit of state highway moneys.** (1) Any reference to the state highway fund shall be taken to mean the state highway account in the earmarked revenue fund.

(2) All moneys received for the use of the commission from the receipt or transfer of motor vehicle license fees, as provided by law, or from other state sources shall be deposited in the earmarked revenue fund to the credit of the commission.

(3) All moneys received from the counties and from the federal government or other agencies shall be deposited in the federal and private revenue fund to the credit of the commission.

(4) Hereafter, all moneys collected for the commission as authorized by law shall be credited to such fund or funds by the state treasurer.

Additional tax by municipalities prohibited—exceptions.

Section 6-106. **Additional tax by municipalities prohibited—exceptions.** Municipalities shall not levy, assess, collect, or charge any additional tax upon any carrier of persons or property for hire, except as provided by law. However, no carrier shall be exempt hereby from paying a parking, curb or ad valorem property tax levied by any municipality.

Additional fees, sales tax, and penalty.

Part 2. **Additional Fees, Sales Tax, and Penalty.**

Additional fees on motor trucks and truck-tractors.

Section 6-201. **Additional fees on motor trucks and truck-tractors.** In addition to other fees for the licensing of vehicles, there shall be paid and collected annually for each motor truck and truck-tractor, based upon the maximum gross loaded weight thereof as set by the licensee in his application, the following fees:

Schedule.

Schedule I

Up to 6,000 lbs.	$ 6
6,001 lbs or more, and less than 8,000 lbs.	10
8,001 lbs. or more, and less than 10,000 lbs.	14
10,001 lbs. or more, and less than 12,000 lbs.	16
12,001 lbs. or more, and less than 14,000 lbs.	18
14,001 lbs. or more, and less than 16,000 lbs.	22
16,001 lbs. or more, and less than 18,000 lbs.	30

HeinOnline -- 1965 574 1965

18,001 lbs. or more, and less than 20,000 lbs.	40
20,001 lbs. or more, and less than 22,000 lbs.	50
22,001 lbs. or more, and less than 24,000 lbs.	75
24,001 lbs. or more, and less than 26,000 lbs.	100
26,001 lbs. or more, and less than 28,000 lbs.	125
28,001 lbs. or more, and less than 30,000 lbs.	165
30,001 lbs. or more, and less than 32,000 lbs.	210
32,001 lbs. or more, and less than 34,000 lbs.	255
34,001 lbs. or more, and less than 36,000 lbs.	300
36,001 lbs. or more, and less than 38,000 lbs.	345
38,001 lbs. or more, and less than 40,000 lbs.	390
40,001 lbs. or more, and less than 42,000 lbs.	435

Section 6-202. **Additional fees on trailers and semitrailers.** In addition to other fees for the licensing of vehicles there shall be paid and collected annually for each trailer and semitrailer, based upon the maximum gross loaded weight thereof as set by the licensee in his application, except as otherwise provided, the following fees.

Additional fees on trailers and semitrailers.

Schedule II.

Schedule.

Trailers Other Than House Trailers.

Up to 2,500 lbs. for personal use	Exempt
Up to 2,500 lbs. for commercial use	$ 3
2,501 lbs. or more, and less than 6,000 lbs.	4
6,001 lbs. or more, and less than 8,000 lbs.	12
8,001 lbs. or more, and less than 10,000 lbs.	14
10,001 lbs. or more, and less than 12,000 lbs.	16
12,001 lbs. or more, and less than 14,000 lbs.	18
14,001 lbs. or more, and less than 16,000 lbs.	22
16,001 lbs. or more, and less than 18,000 lbs.	30
18,001 lbs. or more, and less than 20,000 lbs.	40
20,001 lbs. or more, and less than 22,000 lbs.	50
22,001 lbs. or more, and less than 24,000 lbs.	75
24,001 lbs. or more, and less than 26,000 lbs.	100
26,001 lbs. or more, and less than 28,000 lbs.	125
28,001 lbs. or more, and less than 30,000 lbs.	165
30,001 lbs. or more, and less than 32,000 lbs.	210
32,001 lbs. or more, and less than 34,000 lbs.	255
34,001 lbs. or more, and less than 36,000 lbs.	300
36,001 lbs. or more, and less than 38,000 lbs.	345
38,001 lbs. or more, and less than 40,000 lbs.	390
40,001 lbs. or more, and less than 42,000 lbs.	435

HeinOnline -- 1965 575 1965

Additional fees—gross weight over 42,000 pounds.

Section 6-203. **Additional fees—gross weight over 42,000 pounds.** In addition to the fees provided for in sections 6-201 and 6-202, for each motor truck, truck-tractor, trailer, or semitrailer having a gross loaded weight in excess of forty-two thousand (42,000) pounds and within the weight limits specified in section 32-1123, there shall be paid and collected annually a fee of fifty dollars ($50) for each two thousand (2,000) pounds, or fraction thereof.

Additional fees—pole trailers, low-boys, livestock and mixer vehicles.

Section 6-204. **Additional fees—pole trailers, low-boys, livestock and mixer vehicles.** There shall be paid and collected annually a fee equal to seventy-five per cent (75%) of the fees provided in Schedule I and Schedule II above on pole trailers; trucks, truck-tractors, trailers and semitrailers used exclusively in hauling livestock, logs, and ready-mix concrete; truck-tractors and low-boy trailers used exclusively in hauling equipment; and truck-tractors drawing or hauling said low-boy trailers.

Additional fees—house trailers.

Section 6-205. **Additional fees—house trailers.** In addition to other fees for the licensing of vehicles, there shall be paid and collected annually for each house trailer, based upon over-all length of body as set by the licensee in his application, except as otherwise provided, a fee equal to fifty cents ($.50) for each foot of over-all trailer body length exclusive of bumpers and hitch.

Additional fees—certain farm vehicles.

Section 6-206. **Additional fees—certain farm vehicles.** Except for motor trucks owned and operated by cooperative associations or cooperative marketing associations, there shall be paid and collected annually a fee equal to twenty per cent (20%) of the fees provided in Schedule I and Schedule II above on motor trucks, trailers and semitrailers, owned and operated by ranchers or farmers in the transportation of their own ranch, farm, orchard, or dairy products from point of production to market, or of supplies, commodities or equipment to be used on the ranch, farm, orchard, or dairy, or in the infrequent or seasonal transportation by one farmer for another for any purpose other than commercial hire of products of the farm, orchard or dairy, or of supplies or commodities to be used on the farm, orchard or dairy. However, the minimum fee so paid shall be four dollars ($4). The terms "trailers and semitrailers" as used herein shall not include farm wagons.

Exclusion.

Additional fees—buses—exception.

Section 6-207. **Additional fees—buses.** There shall be paid and collected annually for each bus or auto stage

HeinOnline -- 1965 576 1965

with the exception of school buses a fee of seven dollars ($7) per seat, exclusive of the first seven (7) seats and the operator, for the maximum adult seating capacity thereof, except that motor vehicles which are regularly used to haul freight and passengers shall be taxed upon the basis of the gross weight schedule established in section 6-201. School buses shall not be exempt if they enter charter service.

Additional fees—quarterly payment.

Section 6-208. **Additional fees — quarterly payment.** When the gross weight of any vehicle exceeds twenty-four thousand (24,000) pounds, the additional fees for motor trucks, trailers, tractors, pole trailers, or semi-trailers may be purchased for a three months' period for one-fourth (¼) the regular fee at the beginning of any quarter of the calendar year. For each fee so paid other than at the time of payment of the basic license fee, an additional fee of one dollars ($1) shall be charged. The commission is authorized to establish rules and regulations relative to the issuance and display of certificates or insignia, which shall state the quarters for which the vehicle is licensed.

Failure to pay additional fees—penalty.

Section 6-209. **Failure to pay additional fees—penalty.** No vehicle licensed under the provisions of section 6-208 shall be operated over the public highways unless the owner or operator thereof within ten (10) days after the expiration of any such three-month period shall apply for and pay the required fee for a license for an additional three-month period, or for the remainder of the year. Any person who operates any such vehicle upon the public highway after the expiration of said ten (10) days, shall be guilty of a misdemeanor. In addition he shall be required to purchase a gross weight license for the vehicle involved at the fee covering an entire year's license for operation thereof, less the fees for any period or periods of the year already paid. If, within five (5) days thereafter, no license for a full year has been purchased as required aforesaid, the Montana highway patrol, county sheriff or city police shall impound such vehicle in such manner as may be directed for such cases by the supervisor of the Montana highway patrol, until such requirement is met.

HeinOnline -- 1965 577 1965

Three-unit combination—fees in lieu of gross weight fees otherwise provided—marking.

Section 6-210. **Three unit combination—fees in lieu of gross weight fees otherwise provided—marking.** (1) In lieu of the gross weight fees provided in sections 6-201 - 6-208 of this chapter, the owner of any motor truck or truck-tractor used on the highways of the state in connection with two (2) trailers or semitrailers at the same time shall register them as a three unit combination in the following manner:

(a) By paying the registration and other fees covering the maximum practical gross vehicle weight for such truck or truck-tractor, but not less than the actual operating gross weight under the provisions of sections 53-114, 53-122, and sections 6-201 and 6-203 of this chapter.

(b) By registering such trailers in accordance with the provisions of sections 53-114 and 53-112, and by paying the gross vehicle weight fee prescribed for the maximum trailing load in accordance with the provisions of sections 6-202 and 6-203 of this chapter on the combined gross weight of the two (2) trailers or semitrailers, treating them as if they were a single unit.

(2) Vehicles on which fees are paid in accordance with this section shall have marked thereon the gross weight for which fees have been paid, and shall bear a distinctive mark designated by the commission.

(3) Nothing herein shall be construed as authorizing axle loads in excess to those established by section 32-1123.

Truck, truck-tractor or bus marked with weight or capacity—markings on farm, logging, livestock, mixer equipment or special vehicles.

Section 6-211. **Truck, truck-tractor or bus marked with weight or capacity—markings on farm, logging, livestock, ready-mix concrete, equipment or special vehicles.** (1) Each truck, truck-tractor or bus shall have permanently marked in clearly visible letters and numbers either the maximum gross weight, or maximum gross weight of the combinations of vehicles, or seating capacity shall be at least two (2) inches in height and on the driver's side of the vehicle.

(2) Any vehicle registered and taxed as a farm, logging, livestock, ready-mix concrete, lowboy or special fee vehicle shall have in addition to the above markings, and equally visible, the words "Farm Vehicle," "Logging Vehicle," "Livestock Vehicle," "Mixer Vehicle," "Equipment Vehicle" or "Special Vehicle".

HeinOnline -- 1965 578 1965

Additional fees on motor trucks, truck-tractors, trailers and semitrailers from other states.

Section 6-212. **Additional fees on motor trucks, truck-tractors, trailers and semitrailers from other states.** (1) In lieu of other fees for the licensing of vehicles, there shall be collected a fee for each motor truck, truck-tractor, trailer, and semitrailer already licensed for the year in another jurisdiction and operated upon an itinerant basis in this state. The fee shall be collected upon each entrance of such vehicle into the state, and shall be based upon the number of miles to be traveled in the state as shown in the application of the nonresident operator.

(2) The fee shall be collected for any single vehicle. When any combination of truck, truck-tractor, semitrailer, or trailer totals more than six thousand (6,000) pounds gross weight, the fee shall be collected for each unit in the combination.

Fee.

(3) The fee shall be:

(a) Five dollars ($5) for each trip of two hundred (200) miles or less.

(b) Seven dollars and fifty cents ($7.50) for each trip of over two hundred (200) miles to four hundred (400) miles.

(c) Ten dollars ($10) for each trip of over four hundred (400) miles.

Exclusions.

(4) Such fees shall not apply to any trailer the principal use of which is as temporary or permanent living quarters, or to any vehicle of a carnival which is under contract with a state, county, or district fair association.

Temporary trip permits showing payment of fees —display.

Section 6-213. **Temporary trip permits showing payment of fees — display.** (1) Temporary trip permits showing payment of the fees provided for in the last section shall be issued under such rules and regulations as may be prescribed by the commission. Such permit shall be displayed in the vehicle for which the fee has been paid at all times while such vehicle is being operated on the highways of this state by posting it where it may be read.

(2) The commission may limit the operation of any such vehicle in this state to a definite period of time.

Time for payment of fees by nonresidents.

Section 6-214. **Time for payment of fees by nonresidents.** A nonresident owner or operator of a motor

HeinOnline -- 1965 579 1965

truck, truck-tractor, trailer or semitrailer shall, immediately upon arrival in the state, contact the nearest highway patrol office, any commission office, the county sheriff, or the county treasurer's office to pay the fee and secure the permit prescribed. All fees collected shall immediately be remitted to the county treasurer.

Sales tax on new passenger vehicles.

Section 6-215. **Sales tax on new passenger vehicles.** (1) In consideration of the right to use the highways of the state, there shall be imposed a tax upon all sales of new passenger motor vehicles for which a license is sought and an original application for title is made. The tax shall be paid by the purchaser when he applies for his original Montana license through the county treasurer.

Tax.

(2) The sales tax shall be:

(a) One and one-half per cent (1½%) of the F.O.B. factory list price or F.O.B. port of entry list price, during the first quarter of the year.

(b) One and one-eighth per cent (1 1/8%) of the list price during the second quarter of the year.

(c) Three-fourths (3/4) of one per cent (1%) during the third quarter of the year.

(d) Three-eights (3/8) of one per cent (1%) during the fourth quarter of the year.

(3) In case the manufacturer or importer fails to furnish the F.O.B. factory list price or F.O.B. port of entry list price, the highway commission may use any published price lists.

(4) The proceeds from this tax should be remitted to the state treasurer every thirty (30) days for credit to the commission.

(5) The new vehicle shall not be subject to any other assessment or taxation during the calendar year in which the original application for title is made whether or not it is in the state on the first day of January of that year.

(6) The tax herein imposed shall not apply to any motor vehicle assessed pursuant to the provisions of section 84-406.

Violation—penalty.

Section 6-216. **Violation — penalty.** Any owner or operator of a motor truck, truck-tractor, trailer, semi-

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trailer, bus or automobile who violates any provision of this part is guilty of a misdemeanor and shall be punished by a fine of not more than three hundred dollars ($300), or by a sentence of not more than sixty (60) days in the county jail, or both.

Excess weight —penalties.

Section 6-217. **Excess weight — penalties.** (1) The operator shall be subject to the penalties stated in this section whenever the gross laden weight of any motor truck, truck-tractor, trailer, or semitrailer operated upon any highway in this state exceeds:

(a) The gross maximum weight marked upon the vehicle pursuant to section 6-211, or

(b) The gross vehicle weight shown on the owner's certificate of registration and tax receipt issued pursuant to section 53-107, or

(c) The gross vehicle weight shown on the gross vehicle weight receipt issued pursuant to section 53-620.

Operator to unload.

(2) The operator shall:

(a) Immediately unload all cargo in excess of the gross maximum weight for which the vehicle has been taxed.

(b) Immediately thereafter pay to the nearest county treasurer the difference between the fee already paid and that applicable to the gross weight of his vehicle before unloading the excess, provided that it does not exceed the legal axle weight.

(c) Immediately thereafter reload the cargo unloaded.

(3) If the gross maximum weight marked upon the vehicle is less than gross vehicle weight shown on the owner's registration tax receipt or on the gross vehicle weight receipt, and the receipt shows that the proper fee has been paid for the weight stated thereon, there shall be no penalty for improper marking.

Fees for drive-away or tow-away transporters.

Part 4. **Fees For Drive-Away or Tow-Away Transporters.**

Permit and transit plates for new vehicles being transported by drive-away or tow-away methods.

Section 6-401. **Permit and transit plates for new vehicles being transported by drive-away or tow-away methods.** (1) Every person, firm, partnership or corporation, regularly and lawfully engaged in the transpor-

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tation of new vehicles over the highways of this state from manufacturing or assembly points to agents of manufacturers and dealers in this state or in other states, territories, foreign countries or provinces, by the drive-away or tow-away methods where such vehicles being driven, towed or transported by the saddle-mount, tow-bar or full-mount methods, or any lawful combination thereof, will be transported over the highways of the state of Montana but once, may annually apply to the registrar of motor vehicles for a permit to use the highways of this state, and shall pay, upon filing such application, a fee of one hundred dollars ($100). Upon processing of the application, the registrar of motor vehicles shall issue an annual permit to the applicant.

(2) The permit holder may also apply to the registrar of motor vehicles for a sufficient number of distinctive transit plates or devices showing the permit number for identification of the vehicles being transported by the permit holder, and such plates or devices may be used on any vehicle being driven, towed or transported by and under the control of the permit holder. The registrar of motor vehicles shall collect the additional sum of one dollar ($1) for each pair of transit plates or devices applied for and issued.

(3) The registrar of motor vehicles shall retain the permit and plate fees to defray costs of administering this act.

(4) The permit and transit plates or devices expire on December 31 of each year.

One-trip fee in addition to permit and plate fees, payable quarterly.

Section 6-402. **One-trip fee in addition to permit and plate fees, payable quarterly.** In addition to the permit and plate fees, a permit holder shall pay to the registrar of motor vehicles a one-trip fee of five dollars ($5) per driven vehicle. The fee shall be paid within fifteen (15) days after the end of the calendar quarter upon forms recommended or supplied by the registrar of motor vehicles.

Disposition of funds collected.

Section 6-403. **Disposition of funds collected.** The registrar of motor vehicles shall retain five per cent (5%) of the funds collected in payment of the trip fees to defray costs of administration. The remaining ninety-five per cent (95%) shall be remitted, on or before the

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fifteenth day of each month after collection, to the state treasurer for deposit to the credit of the commission.

Fees provided for are in addition to fees now payable under Title 8, Chapter 1.

Section 6-404. **Fees provided for are in addition to fees now payable under Title 8, Chapter 1.** The fees provided for drive-away or tow-away transportation are in addition to any fees payable by for-hire carriers under the provisions of Chapter 1, Title 8, Revised Codes of Montana, 1947, as amended.

Fees provided for are in lieu of other fees payable—election to pay other fees.

Section 6-405. **Fees provided are in lieu of other fees payable — election to pay other fees.** The fees provided for drive-away or tow-away transporters are declared to be in consideration of the right to use the highways of the state, and are in lieu of all other fees including those which might be payable, under the provisions of part 2 of this chapter. However, any operator may elect to pay the fees payable under the provisions of that part.

Exemptions from fees.

Section 6-406. **Exemptions from fees.** The fees provided for drive-away or tow-away transporters shall not apply to:

(1) Vehicles regularly used in the hauling of vehicles by the truck-away method, or to the vehicles so transported.

(2) Vehicles operated under dealers' licenses or plates.

(3) Vehicles registerable under any other provisions of law.

(4) Any person not issued a drive-away or tow-away permit.

Part 5. **Bond Issues For Toll Bridges.**

Bond issues for toll bridges.

Toll bridge bond issues —authorization —nature.

Section 6-501. **Toll bridge bond issues — authorization—nature.** (1) The authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of revenue bonds for the purpose of paying the cost of any toll bridge. Each resolution providing for the issuance of bonds shall set forth and identify the toll bridge for which the bonds are to be issued. The bonds authorized by each resolution shall constitute a separate series identifiable by a series letter or letters.

(2) Each bond issued by the authority shall contain a statement on the face thereof that the state shall not be

HeinOnline -- 1965 583 1965

obligated to pay the same or the interest thereon except from the special fund provided for that purpose. Toll bridge bonds shall be secured only by the revenues from the toll bridge or toll bridges constructed with the proceeds of such bonds.

Negotiability.

(3) All such bonds shall be fully negotiable, as provided by the Uniform Commercial Code—Investment Securities.

(4) In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes with the same effect as though they had remained in office until such delivery.

Toll bridge bonds —maturity —interest.

Section 6-502. **Toll bridge bonds — maturity — interest.** (1) Toll bridge bonds shall mature at such time or times, not more than twenty (20) years from their date or dates, as may be fixed by the authority's resolution. However, they may be made redeemable before maturity at the option of the authority at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds.

Authority to determine.

(2) The authority shall determine:

(a) The rate of interest such bonds shall bear, not exceeding six per cent (6%) per annum.

(b) The time or times of payment of such interest.

(c) The form of the bonds and the interest coupons to be attached thereto.

(d) The manner of executing the bonds and coupons.

(e) The denomination or denominations of the bonds; and

(f) The place or places of payment of principal and interest, which may be at any bank or trust company.

(3) Prior to the preparation of definitive bonds, the authority may issue temporary bonds with or without coupons under the same restrictions as definitive bonds. Such bonds shall be exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

HeinOnline -- 1965 584 1965

Toll bridge bonds —sale —registration.

Section 6-503. **Toll bridge bonds — sale — registration.** (1) The bonds authorized may be issued and sold from time to time, in such amounts as shall be determined by the authority. The authority may sell said bonds in such manner and for such price as it may determine to be in the best interests of the state. However, no such sale shall be made for less than a price which, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, will show a net return of over six per cent (6%) per annum to the purchaser upon the amount paid therefor.

(2) The authority may make provision for the registration of toll bridge bonds in the name of the owner as to principal alone or as to both principal and interest.

Toll bridge bonds —proceeds —insufficiency —surplus.

Section 6-504. **Toll bridge bonds — proceeds — insufficiency — surplus.** (1) The proceeds of toll bridge bonds shall be used solely for the payment of the cost of the toll bridge constructed according to law for the payment of which such bonds were issued, and shall be disbursed in such manner and under such restrictions as the authority may provide.

(2) If such proceeds shall be less than the cost of any toll bridge, additional bonds may be issued in like manner to provide the amount of such deficit. Unless otherwise provided in the resolution authorizing the bonds, they shall be deemed to be of the same issue, entitled to payment from the same fund, and of equal preference as the bonds first issued for the same toll bridge.

(3) If such proceeds exceed the cost of any toll bridge, the surplus shall be paid into the fund provided for the payment of principal and interest of such bonds.

Lien on moneys received from bonds.

Section 6-505. **Lien on moneys received from bonds.** There is hereby created and granted a lien in favor of the holders of any bonds issued by the authority for payment of the cost of a particular toll bridge upon all moneys received from any such bonds until such moneys are applied in payment of such bonds.

Separate funds —depositories.

Section 6-506. **Separate funds—depositories.** (1) The authority shall create three (3) separate funds for the bonds of each series issued:

(a) The toll bridge construction fund.

HeinOnline -- 1965 585 1965

(b) The toll bridge revenue fund.

(c) The toll bridge sinking fund. Each fund shall be identified by the same series letter or letters as the bonds of such series.

(2) The money in the funds shall be deposited in any depository or depositories and secured in such manner as the authority may determine. It shall be lawful for any bank or trust company incorporated under the laws of this state to act as such depository and to furnish indemnifying bonds or to pledge such securities as may be required by the authority.

Construction fund —disposition of surplus.

Section 6-507. **Construction fund—disposition of surplus.** (1) The proceeds of the bonds of each series issued by the authority shall be placed to the credit of the appropriate construction fund which shall at all times be kept segregated from all other funds.

(2) There shall also be credited to the appropriate construction fund:

(a) All interest accrued upon the bonds.

(b) All interest received upon the deposits of moneys in the fund.

(c) All money received by grant or donation from the United States or any other source for the construction of such toll bridge.

(3) The moneys in each construction fund shall be disbursed to pay the cost of the toll bridge for which such fund was created. Any surplus which may remain in any construction fund after providing for the payment and the cost of such toll bridge shall be added to the appropriate sinking fund.

Revenue fund.

Section 6-508. **Revenue fund.** All tolls collected by the engineer under the supervision of the authority and subject to its rules and regulations shall be deposited to the credit of the respective toll bridge revenue fund designated by the authority.

Sinking fund —provisions —purpose —oustanding bonds —redemption.

Section 6-509. **Sinking fund.** (1) In the resolution authorizing the issuance of each series of bonds, the authority shall provide for paying into the appropriate sinking fund at stated intervals all moneys then remaining in the revenue fund after paying all costs of operation, main-

HeinOnline -- 1965 586 1965

tenance and repair of the toll bridge with respect to which such revenue fund was created.

(2) All moneys in each sinking fund shall be pledged for the payment of and used only for the purpose of paying:

(a) The interest upon the bonds as it becomes due.

(b) The necessary fiscal agency charges for paying bonds and interest.

(c) The principal of the bonds as they fall due.

(d) Any premiums upon bonds retired by call or purchase.

(3) Prior to the issuance of any bonds in a series the authority may provide by resolution for using the sinking fund or any part of such fund to purchase outstanding bonds payable from such fund. The price to be paid cannot exceed the price, if any, at which such bonds will be payable or redeemable at the next interest date. All bonds redeemed or purchased shall be canceled and no bonds issued in place thereof.

(4) The resolution authorizing any bonds may provide for a reserve for the payment of principal and interest. The moneys in each sinking fund, less such reserve, if not used within a reasonable time for the purchase of bonds for cancellation, shall be used to redeem bonds then subject to redemption at the redemption price then applicable.

CHAPTER 7. COUNTY FINANCE.

County finance.

Part 1. **Tax Levies for Road and Bridge Construction.**

Tax levies for road and bridge construction.

Section 7-101. **General road tax.** (1) To raise revenue for the construction, maintenance, or improvement of public highways, each board of county commissioners may levy a general tax upon the taxable property in the county of not more than ten (10) mills, payable to the county treasurer. The tax from freeholders shall be collected the same as other taxes, and from nonfreeholders as the board may direct.

General road tax.

(2) This section shall not apply to incorporated cities and towns which, by ordinance, provide for the levy of a like tax for road, street, or alley purposes.

HeinOnline -- 1965 587 1965

(3) All moneys collected under this section shall belong to the county road fund.

Special bridge taxes—levy and collection.

Section 7-102. **Special bridge taxes—levy and collection.** (1) Each board may levy a special tax not to exceed three (3) mills on all taxable property in the county for the purpose of constructing, maintaining and repairing free public bridges.

(2) An additional levy for these purposes may be made under the following conditions:

(a) In any county where the total linear feet of bridges or bridge construction is more than four thousand (4,000) feet and the taxable value of property in that county is four million dollars ($4,000,000) or less, the board may, if necessary, levy one (1) mill.

(b) In counties where the total linear feet of bridges or bridge construction is more than six thousand (6,000) feet and the taxable value of property in that county is not less than four million dollars ($4,000,000) nor more than twelve million dollars ($12,000,000), the board may, if necessary, levy two (2) mills.

(3) For the purposes of this section, a free public bridge is defined as any drainage structure located on, over or through any road or highway.

(4) These taxes must be levied and collected in the same manner as other taxes. The money shall be kept as a special bridge fund, subject to the order of the board for use as herein provided, and shall not be transferable to any other fund.

Suburban railway to pay county for use of bridge.

Section 7-103. **Suburban railway to pay county for use of bridge.** (1) Before any bridge constructed and maintained by the county in any city or town may be used as a part of any street or suburban railway, the owner of that railway shall pay into the county bridge fund a sum determined by the board which shall not be less than one-fourth (¼) nor more than one-half (½) of the cost of construction of the bridge.

(2) The railway owner shall also pay such portion of the cost of maintaining the bridge (not less than one-fourth [¼] nor more than one-half [½]) as is determined by the board during the time the bridge is used by the railway.

HeinOnline -- 1965 588 1965

Special tax for construction and maintenance.

Section 7-104. **Special tax for construction and maintenance.** Each board may levy a special tax not to exceed five (5) mills on the taxable property in the county to defray the costs of any bridge required to be constructed and maintained by the county in any city or town.

Additional tax levy for road and bridge construction.

Section 7-105. **Additional tax levy for road and bridge construction.** (1) Each board may make an additional levy upon the taxable property in the county of ten (10) mills or less for constructing public highways and bridges.

(2) Before the additional levy may be made, the question shall be submitted to a vote of the people at some general or special election in the following form, inserting the number of mills to be levied and the name of the county: "Shall there be an additional levy of.....mills upon the taxable property in the county of....., state of Montana, for the purpose of constructing public highways and bridges?

Question—form.

☐ Yes
☐ No."

(3) A majority of the votes cast shall be necessary to permit the additional levy which shall be collected in the same manner as other road taxes.

Part 2. **Registration and Other Fees.**

Registration and other fees.

County motor vehicle fund.

Section 7-201. **County motor vehicle fund.** All license and registration fees collected by the treasurer of the county in which any motor vehicle is registered shall be credited to the county motor vehicle fund.

Population centers —city road fund —county road fund.

Section 7-202. **Population centers—city road fund—county road fund.** The county treasurer shall segregate from the county motor vehicle fund, and designate as the "city road fund":

(a) Fifty per cent (50%) of the net license fees derived from the registration of motor vehicles whose owners reside within the limits of any incorporated city.

(i) Having a population of thirty-five thousand (35,000) or more according to the federal census of 1960, or

(ii) Lying within one (1) mile of the limits of an incorporated city having a population of thirty-five thousand (35,000) or more according to the federal census of 1960.

HeinOnline -- 1965 589 1965

(b) Twenty-five per cent (25%) of the net license fees derived from the registration of motor vehicles whose owners reside within the limits of any incorporated city having a population of ten thousand (10,000) or more according to the federal census of 1960, which city is located in a county which has an area of less than seven hundred and fifty (750) square miles.

(2) The balance of the county motor vehicle fund remaining after segregation of the city road fund shall be transferred to the "county road fund."

Population centers —use of city road fund.

Section 7-203. **Population centers—use of city road fund.** (1) At the end of each month, the county treasurer shall pay to the appropriate city treasurer the fees held in the city road fund.

(2) The city treasurer shall hold the fees so paid in a separate "city road fund," which shall be used by the city council only for the construction, repair, and maintenance of permanent highways and streets within the corporate limits.

(3) All such work shall be under the supervision of the county road superintendent, who shall cooperate with the city council in designating the highway or street upon which work is to be done and in selecting the type of pavement to be used.

(4) The cost of supervision by the county surveyor shall not exceed five per cent (5%) of the cost of the work.

Other counties— county road fund —city road fund.

Section 7-204. **Other counties—county road fund—city road fund.** (1) In every county which does not have a city and area populated as provided in section 7-202 of this part, the county treasurer shall divide the county motor vehicle fund between a "city road fund" and a "county road fund."

(2) The division shall be in the ratio determined by the board of county commissioners. The board shall determine the ratio by comparing the total number of miles of public streets and highways situated within the limits of incorporated cities and towns with the total number of miles of public streets and highways outside of such corporate limits.

HeinOnline -- 1965 590 1965

Other counties—use of city road fund.

Section 7-205. **Other counties—use of city road fund.** (1) At the end of each month, the county treasurer shall pay to the treasurer of each incorporated city or town such proportion of the city road fund as directed by the board of county commissioners.

(2) The city or town treasurer shall hold the fund so paid in a separate "city road fund," which shall be used by the city or town council only for the construction, repair, and maintenance of permanent highways and streets within the corporate limits.

Use of county road fund.

Section 7-206. **Use of county road fund.** The county road fund of each county shall be used for the construction, repair, and maintenance of all public highways within its boundaries which are outside the corporate limits of any city or town and are not either state or federal highways.

Special mobile equipment—exemption from registration and fees—identification plate—application—fee—publicly owned equipment.

Section 7-207. **Special mobile equipment — exemption from registration and payment of fees and charges—identification plate—application—fee—publicly owned special mobile equipment.** (1) A person, firm, partnership, or corporation who owns, leases, or rents special mobile equipment as defined in section 53-642 and occasionally moves that equipment on, over, or across the highways of the state, shall not be subject to registration of that equipment or be required to pay the fees and charges provided for in the chapter "State Finance." Prior to any movement on the highways, however, each piece of equipment shall display an equipment identification plate attached thereto.

(2) Annual application for the identification plate shall be made to the county treasurer before any piece of equipment is moved on the highways. Application shall be made on a form furnished by the registrar of motor vehicles, together with the payment of a fee of five dollars ($5). The fees collected under this act shall belong to the county road fund.

(3) The identification plate shall expire on December 31 of each year.

(4) Publicly-owned special mobile equipment, and implements of husbandry used exclusively by an owner in the conduct of his own farming operations, are exempt from the provisions of this section.

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Bonds.

Part 3. Bonds.

County commissioners may issue bonds.

Section 7-301. **County commissioners may issue bonds.** (1) Each board may issue, negotiate and sell coupon bonds on the credit of the county:

(a) To construct or improve, or acquire rights of way for public highways; or bridges.

(b) To refund, pay and redeem optional, redeemable or maturing highway or bridge bonds when there are not sufficient funds available and it is deemed in the best interests of the county to refund the bonds.

(2) The value of the bonds issued and all other outstanding indebtedness of the county shall not exceed five per cent (5%) of the value of the taxable property within the county as ascertained by the last preceding general assessment.

(3) The bonds shall be issued as provided in section 16-2008.

Negotiations for refunding.

Section 7-302. **Negotiations for refunding.** (1) Whenever the total indebtedness of a county exceeds the constitutional limitation of five per cent (5%) of the value of the taxable property therein and the board determines that the county is unable to pay such indebtedness in full, the board may:

(a) Negotiate with the bondholders for an agreement or agreements whereby the bondholders agree to accept less than the full amount of the bonds and the accrued unpaid interest thereon in satisfaction thereof.

(b) Enter into such agreement or agreements.

(c) Issue refunding bonds for the amount agreed upon. These bonds may be issued in more than one series and each series may be either amortization or serial bonds.

(2) The plan agreed upon between the board and the bondholders shall be embodied in full in the resolution providing for the issue of the bonds.

Single purpose —highway —bridge.

Section 7-303. **Single purpose—highway—bridge.** (1) It shall be deemed a single purpose to:

(a) Acquire a right-of-way for and construct a public highway including any bridge or bridges thereon.

HeinOnline -- 1965 592 1965

(b) Contribute to the cost of a federal-aid bridge.

(c) Contribute to the cost of a federal-aid highway project on a highway leading to a federal-aid bridge.

(2) Construction of two or more bridges not forming a part of the same public highway shall be deemed separate purposes.

(3) Nothing contained in this section shall be construed as amending or repealing sections 16-1163 - 16-1165.

Limitation on amount of bonds —issuance in excess of limitations void.

Section 7-304. **Limitation on amount of bonds—issuance in excess of limitations void.** (1) Except as otherwise provided hereafter and in section 16-2010, no county shall issue bonds which, with all outstanding bonds and warrants, except county high school bonds and emergency bonds, will exceed two and one-half per cent (2½%) of the value of the taxable property therein. The taxable property shall be ascertained by the last assessment for state and county taxes prior to the issuance of such bonds.

(2) A county may issue bonds which, with all outstanding bonds and warrants will exceed two and one-half per cent (2½%), but will not exceed five per cent (5%) of the value of such taxable property, when necessary for the purpose of replacing, rebuilding, or repairing county buildings, bridges or highways which have been destroyed or damaged by an act of God, disaster, catastrophe, or accident.

(3) All bonds issued by any county in excess of the limitations herein fixed shall be null and void, except that the limitations shall not apply to refunding bonds issued to pay or retire county bonds lawfully issued prior to January 1, 1932.

"Value of the taxable property."

(4) The words "value of the taxable property" are used in this section in the same sense as in section 5 of article 13 of the constitution and shall be given the same meaning and construction.

Term—power to redeem—maximum interest.

Section 7-305. **Term — power to redeem — maximum interest.** (1) No bonds issued under subsection (1) of section 7-301 of this part shall be for a longer term than twenty (20) years.

(2) No bond issued under subsection (2) of that section shall be issued for a term longer than ten (10) years, except that:

HeinOnline -- 1965 593 1965

(a) If the unexpired term of the bonds to be refunded is greater than ten (10) years, the refunding bonds may be issued for the unexpired term; or

(b) If the ten (10) year term requires an annual tax levy for payment of the refunding bonds which exceeds ten (10) mills on all property subject to taxation, the term may be so extended as to reduce the annual levy to ten (10) mills. In no event shall the term exceed twenty (20) years.

(3) All bonds issued for a term longer than five (5) years shall be redeemable at the option of the county five (5) years after the date of issue and on any payment due date thereafter before maturity. This statement shall appear on the face of each bond.

(4) The maximum rate of interest which any bonds shall bear is six per cent (6%) per annum. Interest shall be payable semiannually.

Form of bonds.

Section 7-306. **Form of bonds.** (1) All bonds issued by any county shall be either amortization bonds or serial bonds. Amortization bonds shall be issued in preference to serial bonds.

"Amortization bonds."

(2) The term "amortization bonds" means that form of bond on which a part of the principal is required to be paid each time interest becomes due and payable. The part payment of principal increases with each following installment in the same amount the interest payment decreases, so that the combined amount payable on principal and interest is the same on each interest payment date. However, the final payment may vary in amount from the other payments to the extent resulting from disregarding fractional cents in the other payments.

"Serial bonds."

(3) The term "serial bonds" means a bond issue payable in equal annual installments, one (1) installment consisting of one (1) or more bonds becoming due and payable each year. The amount to be paid and redeemed each year shall be determined by dividing the total amount of the bonds to be issued by the total number of years the issue is to run, so that the total amount of principal to be paid each year will be the same. The amount of installments becoming due and payable the first year, or the first and second years, may vary from the others to the extent which results from fixing the amounts of

HeinOnline -- 1965 594 1965

each bond of the other installments at one hundred dollars ($100), five hundred dollars ($500) or one thousand dollars ($1,000) as may be determined by the board.

Chapter 8. ACQUISITION AND DISPOSITION OF PROPERTY AND INTERESTS THEREIN.

Acquisition and disposition of property and interests therein.

Part 1. Acquisition and Disposition by State.

Acquisition and disposition by state.

Section 8-101. **Rights acquired by public in highway.** By taking or accepting land for a highway, the public may acquire either a fee simple or any lesser estate or interest.

Rights acquired by public in highway.

Section 8-102. **General power of commission to acquire interests in property.** Notwithstanding any other provision of law, the commission may acquire by purchase or any other lawful manner any lands or other real property, excluding oil, gas and mineral rights, which it deems reasonably necessary for present or future highway purposes. The commission may acquire a fee simple or any lesser estate or interest.

General power of commission to acquire interests in property.

Section 8-103. **Same—highway purposes.** The acquisition of lands or other property, or any interest therein, for present or future highway purposes includes, but is not limited to any of the following purposes: (1) For rights of way, including those necessary for highways within cities.

Same—highway purposes.

(2) For exchanging lands or other property or any interest therein for other such lands or interests for rights of way or other authorized purposes. The right of eminent domain shall not be exercised for this purpose.

(3) For deposits of road building materials, including rock, gravel, sand, and earth for reasonably forseeable future road building purposes and uses. The right of eminent domain shall not be exercised to acquire any such deposits which constitute a component part of an existing private business enterprise.

(4) For offices, weighing stations, shops, storage yards, buildings, rest areas, informational sites, or communication facilities.

(5) For parks adjoining or near any highway.

(6) For the culture and support of trees or shrubs which benefit any highway by aiding in the maintenance and preservation of the roadbed.

HeinOnline -- 1965 595 1965

(7) For drainage in connection with any highway.

(8) For the maintenance of an unobstructed view of any portion of a highway so as to promote the safety of the traveling public.

(9) For the construction and maintenance of stock lanes or trails.

(10) For the construction and maintenance or replacement of private or public drainage systems, or natural water or drainage courses made necessary by highway construction.

(11) For providing land or other real property easements or rights of way for necessary relocation of existing utilities, utility easements, or other easements for facilities or purposes then in place or in effect upon a proposed right of way.

Exercise of right of eminent domain —presumption.

Section 8-104. **Same—exercise of right of eminent domain, presumption.** (1) Whenever the commission can not acquire lands or other property or interests therein at a price or cost which it deems reasonable, it may direct the attorney general or any county attorney to procure the interests by proceedings to be instituted as provided in sections 93-9901 - 93-9926 against all nonaccepting landholders.

(2) It shall not so direct the attorney general or any county attorney until it adopts a resolution declaring that:

(a) Public interest and necessity require the construction or completion by the state of the highway or improvement for one of the purposes set forth in section 8-103.

(b) The interest described in the resolution and sought to be condemned is necessary for the highway or improvement.

(c) The highway or improvement is planned and located in a manner which will be compatible with the greatest public good and the least private injury.

(3) The resolution shall create and establish a disputable presumption:

(a) Of the public necessity of the proposed highway or improvement.

HeinOnline -- 1965 596 1965

(b) That the taking of the interest sought is necessary therefor.

(c) That the proposed highway or improvement is planned or located in a manner which will be most compatible with the greatest public good and the least private injury.

Acquisition of whole parcel—sale of excess.

Section 8-105. **Same—acquisition of whole parcel—sale of excess.** (1) Whenever any interest in a part of a parcel of land or other real property is to be acquired for highway purposes, leaving the remainder in such shape or condition as to be of little market value, or to give rise to claims or litigation over severance or other damage, the commission may acquire the whole parcel. It may sell or exchange the remainder for other property needed for highway purposes.

(2) Whenever a part of a parcel of land acquired for highway purposes is in such a shape or size as to come within the provisions of section 11-614, the commission shall prepare and file the required plat in the office of the county clerk and recorder.

Power to acquire for future.

Section 8-106. **Same—power to acquire for future.** (1) The power conferred by this chapter to acquire interests in lands or other real property includes power to acquire for reasonably forseeable future needs.

(2) The commission may lease unused portions of any lands or other real property which are held for highway purposes and interstate highway rights of way which are not presently needed for highway purposes on such terms and conditions as it may fix. The commission may repair, maintain, and care for such property in order to secure rent therefrom.

(3) All rent received shall be deposited to the credit of the commission.

Road building materials.

Section 8-107. **Same — road building materials.** (1) Any right of way or easement acquired by the commission for construction, operation, repair, reconstruction, or maintenance of highways shall include, among others, the right to use, remove, relocate, redistribute, or otherwise dispose of any and all gravel and other road-building materials found or located within the boundaries of the right of way or easement.

HeinOnline -- 1965 597 1965

(2) For the purposes of this chapter, such gravel or materials shall be deemed to be real property and not minerals.

No compensation in certain cases —exceptions.

Section 8-108. **No compensation in certain cases—exceptions.** (1) Whenever the commission files a description and plan as provided in section 4-113 of this Code, no consideration, allowance or assessment of values or compensation shall be made in the purchase or condemnation of any buildings or improvements or subdivisions placed or erected on the land covered by the plan after the filing.

(2) The establishment of the highway location covered by the description and plan shall be ineffective one year after filing if no action to condemn or acquire the property has been commenced.

(3) Nothing in this section or in section 4-113 shall apply to crops or similar improvements planted on the lands described. They shall be governed by the provisions of section 93-9913.

Exchange of interests in real property.

Section 8-109. **Exchange of interests in real property.** (1) The commission may determine that any interest in real property, however acquired by it, is no longer necessary to the laying out, altering, construction, improvement, or maintenance of any highway. It may then exchange any such interest, either as entire or partial consideration, for any other interest in real property needed for highway purposes. The commission may establish the manner and terms and conditions for such exchange.

(2) The owner from whom such interest was originally acquired by the state, or his successor in interest, shall have the right to require the commission to offer such land for sale in the manner set forth in sections 8-110 and 8-111. The commission shall notify such owner or successor in interest of its intention to exchange such interest. The owner shall make his demand for sale by registered mail to the commission within ten (10) days after receipt of notice from the commission.

Sale of interests in real property.

Section 8-110. **Sale of interests in real property.** The commission may sell any interest in real property, however acquired by it, which it determines is not necessary to the laying out, altering, construction, improvement, or maintenance of any highway. If the interest is reasonably of a value in excess of one hundred dollars ($100), sale

HeinOnline -- 1965 598 1965

shall be made to the highest bidder at public auction or by sealed bids as the commission may decide. The sale shall be conducted as provided in section 8-111.

Conduct of sale.

Section 8-111. **Conduct of sale.** (1) The commission shall publish notice of the sale in a newspaper published in the county in which the interest is located once a week for two (2) successive weeks. Sale shall be held at the office of the commission at the capitol.

(2) Before any sale of any interest having a value in excess of one hundred dollars ($100), the commission shall have it appraised at a price representing a fair market value. The appraised value shall be stated in the published notice.

(3) No sale shall be made of any interest unless it has been appraised within three (3) months prior to the date of the sale. No sale shall be made for less than ninety per cent (90%) of the appraised value.

(4) No title to any interest shall pass from the state until the purchaser has paid the full amount of the purchase price into the state treasury to the credit of the commission.

Option of original owner or successor in interest to purchase at sale price.

Section 8-112. **Option of original owner or successor in interest to purchase at sale price.** The owner from whom the interest was originally acquired, or his successor in interest, shall have the option to purchase the interest by offering therefor an amount of money equal to the highest bid received for the interest at the sale. The offer shall be sent to the commission by registered mail within ten (10) days from the date of the sale.

Private sale if no bid or offer.

Section 8-113. **Private sale if no bid or offer.** (1) If, after proper notice is published, the commission receives neither bid at public sale nor offer from the original owner of his successor in interest, it may at any time thereafter sell the interest at private sale. At such sale, the commission may accept as the purchase price an amount of money not less than ninety per cent (90%) of the appraised value.

(2) No title to any interest shall pass from the state until the purchaser has paid the full amount of the purchase price into the state treasury to the credit of the commission.

HeinOnline -- 1965 599 1965

Sale of personal property—maps, books, other printed matter.

Section 8-114. **Sale of personal property — maps, books, other printed matter.** (1) The commission may sell at public or private sale, as it may determine, any interest in personal property, however acquired by it, which it determines is not necessary to the laying out, altering, construction, improvement, or maintenance of any highway.

(2) The commission may sell at public or private sale, as it may determine, maps, books, pamphlets, or other printed matter, prepared or acquired by the commission. The commission may sell copies of any highway records to the public and may set reasonable prices therefor.

(3) The proceeds from sales made under the provisions of this section shall be paid into the state treasury to the credit of the commission.

Conveyances —execution —contents.

Section 8-115. **Conveyances — execution — contents.** (1) Any land or interest therein sold by the commission shall be conveyed only when full payment has been made therefor. It shall be conveyed by a deed or patent of conveyance without covenants which recites that it was issued under the provisions of this part.

(2) The deed or patent shall contain a reservation of easements for rights of way for the benefit of the United States, and all other reservations to which the land conveyed may be subject.

(3) The deed or patent shall be signed by the governor, or, in case of his absence or inability, the lieutenant governor. It shall be attested by the secretary of state and have attached the great seal of the state. It need not be acknowledged.

Rendering irrigable lands unusable—unpaid construction costs.

Section 8-116. **Rendering irrigable lands unusable—unpaid constructions costs.** Whenever the commission acquires irrigable land for highway purposes, or so acquires land as to render other irrigable land unusuable for irrigation, it shall pay to the owner of the irrigation or drainage project, in addition to other sums allowed by law, a proportionate share of the unpaid construction costs of the project or drainage district.

Abandonment or vacation of federal-aid or state highways.

Section 8-117. **Abandonment or vacation of federal-aid or state highways.** Every federal-aid or state highway once established must continue until abandoned or

HeinOnline -- 1965 600 1965

vacated by operation of law, or by judgment of a court of competent jurisdiction, or by a proper order of the commission.

Highway crossing railroad, canal, or ditch.

Section 8-118. **Highway crossing railroad, canal, or ditch.** (1) Whenever any federal-aid or state highway is laid out on public lands across any railroad, canal, or ditch, the owners or users thereof must, at their expense, so prepare the railroad, canal, or ditch that the highway may cross it without damage or delay.

(2) When the right to cross is obtained through the judgment of any court, no damages shall be awarded.

Rights of way for toll bridges.

Section 8-119. **Rights of way for toll bridges.** (1) The authority may acquire by purchase or otherwise necessary rights of way for any toll bridge and approaches. It may exercise the right of eminent domain in the name of the state for those purposes.

(2) Whenever the authority can not acquire by purchase any right of way which it deems necessary, it may direct the attorney general or any county attorney to procure it by proceedings to be instituted as provided in sections 93-9901 - 93-9926 against all non-accepting landowners.

(3) A right of way is hereby given, dedicated, and set apart for toll bridges and approaches thereto, through, over, upon, or across:

(a) Any property of the state, including highways.

(b) Any county road.

(c) Any street or alley.

Acquisition and use for toll bridge and approach purposes shall be deemed a superior and more necessary public use than the public use or purpose to which the highway, road, street, or alley has theretofore been dedicated.

Acquisition of property for controlled access facility.

Section 8-120. **Acquisition of property for controlled access facility.** (1) The highway authorities of the state, counties, incorporated cities and towns, respectively, or in cooperation one with the other, may acquire private or public property and property rights for controlled access highways or controlled access facilities and service roads. Such rights may include rights of

HeinOnline -- 1965 601 1965

access, air, view, and light. They may be acquired by gift, devise, purchase, or condemnation, in the same manner as may now or hereafter be authorized by law for the acquisition of property or property rights in connection with highways, roads, and streets in their respective jurisdictions.

(2) A right of way is hereby given, dedicated, and set apart for controlled access highways or controlled access facilities through, over, upon, or across any county road and any street or alley intersecting a controlled access highway. Acquisition of any county road, street, or alley for use as a controlled access highway or controlled access facility shall be deemed a superior and more necessary public use and purpose than the public use or purpose to which such road, street, or alley has theretofore been dedicated.

Acquisition and disposition by county.

Part 2. **Acquisition and Disposition by County.**

Rights of way for county roads.

Section 8-201. **Rights of way for county roads.** (1) Each board shall acquire rights of way for county roads and discontinue or abandon them only upon proper petition therefor.

(2) By taking or accepting interests in real property for county roads, the public acquires only the right of way and the incidents necessary to enjoying and maintaining it.

Petition by freeholders to establish, change, abandon or discontinue a county road.

Section 8-202. **Petition by freeholders to establish, change, abandon, or discontinue a county road.** Any ten, or a majority, of the freeholders of a road district, taxable therein for road purposes, may petition the board in writing to open, establish, construct, change, abandon, or discontinue any county road in the district. If the county is not divided into districts the entire county shall be one road district. When the road petitioned for is on the dividing line between two counties, the same procedure must be followed, except that a copy of the petition must be presented to each board. The two boards shall act jointly.

Contents of petition.

Section 8-203. **Contents of petition.** The petition must set forth: (1) The particular road or roads to be opened, established, constructed, changed, discontinued, or abandoned.

HeinOnline -- 1965 602 1965

(2) The general route thereof.

(3) The lands and owners affected.

(4) Whether the owners who can be found consent thereto.

(5) Where consent is not given, the probable cost of the right of way.

(6) The necessity for, and advantage of, the petitioned action.

Investigation of petition—notice.

Section 8-204. **Investigation of petition—notice.** (1) At its next regular or special meeting, or in any case, at a date within thirty (30) days after filing of any petition, the board shall cause an investigation to be made of the feasibility, desirability, and cost of granting the prayer of the petition. The investigation shall be sufficient to properly determine the merits or demerits of the petition.

(2) No more than one member of the board and the county surveyor shall make the investigation. After considering the petition and the results of the investigation, the board shall make an entry of its decision on the minutes.

(3) Within ten (10) days thereafter, the board shall cause notice of its decision to be sent by certified mail to all owners of land abutting on the road petitioned for. The owners shall be those listed on the last county assessment-roll.

Opening of road —survey.

Section 8-205. **Opening of road—survey.** If the petition is for the opening of a county road, and the board grants the prayer, ordering the road opened, it shall proceed at once to have it opened to the public and declare it to be a county road. The board may order the county surveyor, or some other competent surveyor, if the county surveyor is incompetent to survey and plat the road. He shall file his field notes with the county clerk and recorder. The surveyor shall receive seven dollars ($7) per day and actual traveling expenses.

Determination of damages—declaration as road.

Section 8-206. **Determination of damages—declaration as road.** (1) Whenever the board makes an order establishing or changing any road, it must find the amount of damages sustained by each owner or claimant of lands or improvements thereon affected by the road.

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Damages shall be paid to the owner or claimant, if known, upon his showing or establishing his right or title to the lands or improvements and furnishing proper deeds and releases.

(2) Damages must be determined by estimating the benefits and damages accruing. The sum estimated as benefits must be deducted from the sum estimated as damages, and the remainder, if any, shall be the amount of damages awarded.

(3) If all awards are accepted, the board shall declare the road a county road and open it.

Award of damages deemed rejected—proceedings to secure right of way.

Section 8-207. **Award of damages deemed rejected—proceedings to secure right of way.** (1) If any award of damages provided for in section 8-206 is not accepted within twenty (20) days after the date of the award, it shall be deemed rejected by the owner. The board shall, by order, direct that proceedings to procure the right of way be instituted under sections 93-9901 - 93-9926 by the county attorney against all nonaccepting landowners.

(2) Such proceedings shall in no way be affected or invalidated by the failure of the board to give any notice or do any act provided for in this part. Failure to give any such notice shall not be considered by any court as a defense in any proceedings for procuring right of way.

(3) However, in such proceedings it shall be made to appear that the board shall have declared by resolution that the right of way was necessary and desirable.

Damages and expenses to be paid out of county road fund.

Section 8-208. **Damages and expenses to be paid out of county road fund.** All awards of damages estimated by the board or made by the proper court and all expenses, including those of the members of the board and their per diem authorized by section 16-912, shall be paid out of the county road fund on the order of the board.

Change of road upon petition.

Section 8-209. **Change of road upon petition.** (1) A majority of the freeholders or owners residing on any county road, or portion thereof, may petition the board in writing to so change the road or portion as to run on subdivision or section lines.

HeinOnline -- 1965 604 1965

(2) The board shall investigate in the same manner as provided in section 8-204. After investigation, the board may order the making of the change if it can be done without material damage, injury, or serious inconvenience to the public customarily using the road or portion.

(3) Those petitioning for the change shall bear all or such portion of the cost and expense of making it as the board may order.

Notice to district supervisor of opening of county road.

Section 8-210. **Notice to district supervisor of opening of county road.** When a county road is to be opened, established, constructed, changed, abandoned, or discontinued, the county clerk shall notify the supervisor of the proper district and furnish him with a certified copy of the order of the board.

Record of opening or changing road.

Section 8-211. **Record of opening or changing road.** When a county road is opened or changed, the findings of the board, the plat fieldnotes, and the report of the surveyor shall be recorded in the office of the county clerk in a book kept for that purpose.

Deeds and judgments for right of way—recording.

Section 8-212. **Deeds and judgments for right of way—recording.** (1) When a right of way is voluntarily given or purchased, an instrument in writing, conveying the right of way and incidents thereto, must be signed and acknowledged by the person making it. It must then be recorded in the office of the clerk of the county where the land is located.

(2) When a right of way is condemned, a certified copy of the judgment of the court must be made. It must then be filed in the office of the clerk of the county where the land is located.

(3) Both types of instruments shall particularly describe the land.

County road crossing railroad, canal or ditch.

Section 8-213. **County road crossing railroad, canal or ditch.** (1) Whenever any county road is laid out on public lands across any railroad, canal, or ditch, the owners or users thereof must at their expense, so prepare the railroad, canal, or ditch that the road may cross it without damage or delay.

(2) When the right to cross is obtained through the judgment of any court, no damages shall be awarded.

HeinOnline -- 1965 605 1965

Abandonment or vacation of county roads.

Section 8-214. **Abandonment or vacation of county roads.** All county roads once established must continue to be county roads until abandoned or vacated by operation of law, or by judgment of a court of competent jurisdiction, or by the order of the board. No order to abandon any county road shall be valid unless preceded by notice and public hearing.

Stock lanes.

Section 8-215. **Stock lanes.** Upon presentation of a proper petition, each board may establish, alter, or vacate stock lanes when it deems it expedient and necessary for the convenience of the public and for the convenience of travel on roads now established. Any lane may adjoin and parallel a county road and shall be described in the petition for creation and in the order of the board creating it.

(2) A stock lane is a county road established and maintained for the driving and travel of livestock. It shall be not less than sixty (60) feet wide. The width shall be determined by the board in the order creating it.

(3) The provisions of sections 8-201 - 8-214 of this part and the general laws relating to establishing, altering, and vacating county roads including the exercise of the right of eminent domain shall apply to stock lanes. References in all petitions, orders, and proceedings shall be to "stock lanes" in order to differentiate them from other highways.

Board to transfer responsibility for right of way.

Section 8-216. **Board to transfer responsibility for right of way.** Each board shall transfer its control over, and responsibility for, any county road when the commission notifies it that: (1) A federal or state highway has been established and definitely located over a county road.

(2) Funds are available for immediate construction of the highway.

(3) The highway will be improved and maintained by the commission.

Acquisition of property for public ferries and wharves.

Section 8-217. **Acquisition of property for public ferries and wharves.** (1) Upon the proper showing, as provided in section 16-1116, each board may construct or acquire ferries by condemnation or purchase. Each board may also acquire all the necessary boats, grounds,

HeinOnline -- 1965 606 1965

roads, approaches, landings, and improvements pertaining to the ferry.

(2) Each board may acquire real property for these purposes under the provisions of section 93-9901 - 93-9926.

(3) No board shall establish or maintain a county ferry or wharf with a landing-place in any incorporated city or town which, by its charter, is vested with the power to build and regulate ferries, wharves, or landings at the feet of streets terminating at a river or harbor.

Acquisition of property for controlled access facility.

Section 8-218. **Acquisition of property for controlled access facility.** The highway authorities of the state, counties, incorporated cities, and towns, respectively or in cooperation each with the other, may acquire private or public property and property rights for controlled access highways or controlled access facilities and service roads. Such rights may include rights of access, air, view, and light. They may be acquired by gift, devise, purchase, or condemnation, in the same manner as may now or hereafter be authorized by law for the acquisition of property or property rights in connection with highways, roads, and streets in their respective jurisdictions.

Contracts.

Chapter 9. CONTRACTS.

Contracts of commission.

Part 1. **Contracts of Commission.**

Letting of contracts on state and federal-aid highways.

Section 9-101. **Letting of contracts on state and federal-aid highways.** All contracts for work on state and federal-aid highways, including portions in cities and towns, and all contracts entered into under section 11-1023 shall be let by the commission. Except as otherwise specifically provided, the commission may enter such types of contracts and upon such terms as it may decide. All contracts shall meet the requirements of sections 41-701 - 41-703. When there is no prevailing rate of wages set by collective bargaining, the commission shall determine the prevailing rate to be stated in the contract.

Competitive bidding.

Section 9-102. **Competitive bidding.** (1) When the estimated cost of any work exceeds one thousand dollars ($1,000), the commission shall let the contract by competitive bidding. Award shall be made upon such notice and upon such terms as the commission may prescribe by its rules and regulations. However, except when pro-

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hibited by federal law, the commission must make awards and contracts in accordance with the provisions of sections 82-1924 and 82-1926.

(2) If the commission finds that such work may be done in some more efficient manner, it need not let the contract by competitive bidding.

(3) If, on any highway construction work financed in whole or in part by federal funds, the United States Secretary of Commerce affirmatively finds that under the circumstances relating to a particular project some method other than competitive bidding is in the public interest, the commission may enter into contracts with any board of county commissioners. Such contracts may authorize each county to acquire rights of way for, survey, and construct farm to market, secondary, or feeder roads within the county by force account, unit price, or otherwise, as may be agreed by the commission and each board.

Bidder's security —contractor's bond.

Section 9-103. **Bidder's security — contractor's bond.** (1) Whenever the commission calls for competitive bidding, each bidder shall meet all requirements of section 6-501.

(2) Every contractor awarded a contract by the commission shall meet all requirements set forth in sections 6-401 - 6-404. For the purposes of those sections with relation to contracts with the commission, a contract shall not be completed until the commission, while formally convened, affirmatively accepts all of the work thereunder.

Contracts of counties and local improvement districts.

Part 2. **Contracts of Counties and Local Improvement Districts.**

Contracts for county roads.

Section 9-201. **Contracts for county roads.** (1) When the estimated cost of opening, establishing, constructing, changing, abandoning, discontinuing, or widening a county road exceeds one thousand dollars ($1,000), the work may, in the discretion of the board, be let by contract, unless the board shall find that such work may be otherwise done at less cost.

(2) Before any such contract shall be let, the board shall advertise for bids at least once a week for two (2)

HeinOnline -- 1965 608 1965

consecutive weeks, in a newspaper of general circulation in the county.

Bids—award of contract.

Section 9-202. **Same — bids — award of contract.** Each bidder shall comply with the requirements of section 6-501. The contract shall be awarded to the lowest responsible bidder in accordance with the requirements of sections 41-701 - 41-703, 82-1924, and 82-1926, and the board may reserve the right to reject any and all bids. When there is no prevailing rate of wages set by collective bargaining, the board shall determine the prevailing rate to be stated in the contract.

Contractors to furnish bond.

Section 9-203. **Same — contractors to furnish bonds.** Before entering upon performance of the work, the contractor shall comply with the requirements of sections 6-401 - 6-404. For the purposes of those sections with relation to contracts with the board, a contract shall not be completed until the board, while formally convened, affirmatively accepts all of the work thereunder.

Letting of contract for bridge.

Section 9-204. **Letting of contract for bridge.** (1) All bids for construction or repair of bridges shall meet these requirements:

(a) If the commission has adopted or established a standard plan and specifications, the bids must be submitted thereon.

(b) All bids must be sealed. Each bidder shall meet the requirements of section 6-501.

(2) The board may reject any and all bids. If a contract is awarded, the board shall do so in accordance with the requirements of sections 41-701 - 41-703, 82-1924, and 82-1926. When there is no prevailing rate of wages set by collective bargaining, the board shall determine the prevailing rate to be stated in the contract. The contract must be entered with the unanimous consent of the members of the board.

(3) Before entering upon performance of the work, the contractor shall comply with the requirements of sections 6-401 - 6-404. For the purposes of those sections with relation to contracts with the board, a contract shall not be completed until the board, while formally convened, affirmatively accepts all of the work thereunder.

HeinOnline -- 1965 609 1965

Letting of contract by local improvement district—bids.

Section 9-205. **Letting of contract by local improvement district—bids.** (1) After the board has made the order creating and establishing the local improvement district, the local committee of supervisors shall advertise for bids. The advertisement shall state generally the work to be done and shall refer to the plans and specifications. It shall also fix the time for opening bids in the office of the board. Each bidder shall meet the requirements of section 6-501.

(2) At that time, the committee shall open all bids. It may reject all of them and readvertise for bids. No contract shall be awarded at a greater sum than the estimate of cost provided for in part 4 of chapter 5 of this Code.

Award.

Section 9-206. **Same—award.** (1) If the committee awards a contract, it shall do so in accordance with the requirements of section 41-701 - 41-703, 82-1924, and 82-1926. When there is no prevailing rate of wages set by collective bargaining, the committee shall determine the prevailing rate to be stated in the contract.

(2) Before entering upon performance of the contract, the contractor shall comply with the requirements of sections 6-401 - 6-404. For the purposes of those sections with relation to contracts with the committee, a contract shall not be completed until the committee, while formally convened, affirmatively accepts all of the work thereunder.

(3) Partial payments may be provided for in the contract, and paid when certified by the county surveyor and committee.

Execution of contract by board—limit on liability.

Section 9-207. **Execution of contract by board—limit on liability.** The contract shall be executed in the name of and on behalf of the county by the board and attested with the county seal for the use and benefit of the local improvement district. The county shall not be subject to any claim or liability in an amount greater than that agreed upon with the district in the order fixing the amount chargeable to the county.

Control of access.

Chapter 10. CONTROL OF ACCESS.

Policy.

Section 10-101. **Policy.** The legislative assembly declares it to be the policy of this state to facilitate the flow

HeinOnline -- 1965 610 1965

of traffic and promote public safety by controlling access to: (1) Highways included by the bureau of public roads in the national system of interstate highways.

(2) Throughways and intersections with throughways.

(3) Such other federal-aid and state highways as shall be designated by the commission in accordance with the requirements set forth in this chapter.

Definitions. "Interstate highway."

Section 10-102. **Definitions.** When used in this chapter: (1) "Interstate highway" means any highway now included or which shall hereafter be included as a part of the National System of Interstate Highways.

"Controlled access highway."

(2) "Controlled access highway" means all portions of any interstate highway, throughway, or throughway intersection which the commission shall determine and designate for through traffic, or other federal-aid or state highway over, from or to which owners or occupants of abutting land or other persons shall have no easement of access or only a limited easement of access, light, air, or view. It shall also mean those portions of spurs to the interstate highway system which the commission shall determine and designate as unsafe or impeded by unrestricted access of traffic from intersecting streets or alleys or public or private roads or ways of passage.

"Controlled access facility."

(3) "Controlled access facility" means and includes all streets, alleys, public roads, private roads, and ways of passage intersecting any controlled access highway and all real property contiguous to the right of way of any controlled access highway.

"Existing highway."

(4) "Existing highway" means and includes all highways, roads, and streets established constructed, and in use on March 2, 1955. It shall not include highways, roads, or streets, established, constructed, and in use after that date, or highways, roads, or streets, or portions thereof relocated after that date.

"Arterial highway."

(5) "Arterial highway" means any state highway designated by agreement between the commission and the secretary of commerce as part of the federal-aid primary system and any highway so designated as a part of the federal-aid secondary system which has been

HeinOnline -- 1965 611 1965

constructed and is being used primarily for through traffic on a continuous route.

"Throughway." (6) "Throughway" means any portion of an arterial highway constructed and used for carrying traffic partially or entirely around a town or city or a portion thereof.

"Throughway intersection area." (7) "Throughway intersection area" means an area within a radius of three hundred (300) feet from the point of intersection of the center lines of a throughway and any public road, street, or highway.

"Highway authorities" or "authority." (8) "Highway authorities" or "authority" means the entities in state, county, and municipal governments which have authority to construct, repair, and maintain highways, roads, and streets.

Designation as controlled access highway—resolution—findings. Section 10-103. **Designation as controlled access highway — resolution — findings.** (1) No portion of any interstate highway, throughway or throughway intersection, or other federal-aid or state highway shall be designated as a controlled access highway unless the commission shall adopt a resolution so designating it. The resolution shall be adopted by the majority vote of the members in attendance at any regular or special meeting. In it, the commission shall find and determine:

(a) That it is necessary and desirable that the owners or occupants of the abutting land or other persons shall have no easement of access or only a limited easement of access, light, air, or view.

(b) That it is necessary and desirable that the rights of, or easements to access, light, air, or view be acquired by the state so as to prevent such portion of highway from becoming unsafe for or impeded by unrestricted access of traffic from intersecting streets, alleys, public or private roads or ways of passage.

(2) The requirement by the United States that access must be controlled shall be a basis of necessity for the passing of the resolution.

(3) The resolution shall contain a statement of the reasons for its adoption, and shall set forth the location, distance, and termini of the portion of the highway designated as a controlled access highway.

HeinOnline -- 1965 612 1965

Petition from city or county.

Section 10-104. **Same—petition from city or county.** (1) No portion of a throughway or throughway intersection, or other federal-aid or state highway within the limits of an incorporated city or town shall be designated a controlled access highway except upon petition in writing from its governing body.

(2) If the portion lies wholly or partially outside of any such corporate limits, the petition must come from the board of the county within which the portion is located.

(3) Any such petition, once filed with the commission, shall be irrevocable unless the commission concurs in a request to revoke it.

Powers of highway authorities.

Section 10-105. **Powers of highway authorities.** (1) Those authorities of the state, counties, and municipalities authorized to participate in construction and maintenance of highways may plan, designate, establish, regulate, vacate, alter, improve, maintain, and provide controlled access facilities for public use. Each such authority shall, by resolution, make the findings and determinations provided for in section 10-103 of this chapter.

(2) Within incorporated cities and towns, and upon county roads, each authority shall be subject to the consent of the appropriate governing body.

(3) Each authority may also exercise, with relation to controlled access facilities, any and all additional authority now or hereafter vested in it over highways, roads, or streets within its respective jurisdiction. It may regulate, restrict, or prohibit the use of controlled access facilities by any vehicles or traffic.

Design of controlled access facility—entrance and exit restricted.

Section 10-106. **Design of controlled access facility — entrance and exit restricted.** (1) Each highway authority may so design any controlled access facility and so regulate, restrict, or prohibit access as to best serve the traffic for which the facility is intended. In so doing, it may divide and separate any controlled access facility into separate roadways by the construction of raised curbings, central dividing sections, or other physical separations, or by designating the separate roadways by signs, markers, stripes, and other devices.

(2) No person shall have any right to enter upon, exit from, or cross any controlled access facility except

HeinOnline -- 1965 613 1965

at designated points at which access may be permitted. Terms and conditions governing such access may be specified from time to time.

New and existing facilities— elimination of grade crossings.

Section 10-107. **New and existing facilities — elimination of grade crossings.** (1) Each highway authority may provide for elimination of intersections at grade of controlled access highways or controlled access facilities with existing federal-aid and state highways, county roads, and city or town streets. Elimination shall be accomplished at the boundary of the controlled access right of way.

(2) After the establishment of any controlled access highway or facility, no private or public highway or street which is not a part of the highway or facility shall intersect it at grade. No street, road, highway, or other public way shall be opened into or connected with any controlled access highway or facility without the prior consent and approval of the appropriate highway authority.

(3) The commission may, whenever it determines that the public safety is not thereby impaired, authorize the continued intersection at grade of lightly traveled farm entrances and minor public roads as ways of access to controlled access highways in sparsely populated rural areas. The commission shall have sole jurisdiction to determine the existence and location of any intersection with interstate highways, throughways and other federal-aid and state highways.

Existing roads and streets as service roads.

Section 10-108. **Existing roads and streets as service roads.** (1) In connection with the development of any controlled access highway or facility, each highway authority may plan, designate, establish, use, regulate, alter, improve, maintain, and vacate local service roads and streets. Each authority may designate as local service roads and streets any existing road or street.

(2) Service roads and streets shall be of appropriate design. They shall be separated from the controlled access highway or facility by means of all devices determined to be necessary to carry out the provisions of this chapter.

(3) Each authority shall exercise jurisdiction over

HeinOnline -- 1965 614 1965

service roads and streets in the same manner as is authorized over controlled access highways or facilities.

Marking of controlled access highway or facility with signs.

Section 10-109. **Marking of controlled access highway or facility with signs.** Any controlled access highway or facility and portions thereof shall be physically marked by signs indicating to drivers of vehicles the points at which they enter and leave a controlled access area.

Commercial enterprise or structure prohibited.

Section 10-110. **Commercial enterprise or structure prohibited.** No commercial enterprise or structure shall be constructed or operated on the publicly-owned right of way of a controlled access highway or facility or on any publicly-leased land used in connection therewith.

Violations—penalties.

Section 10-111. **Violatons — penalties** (1) On any controlled access highway or facility it is unlawful for any person to:

(a) Drive a vehicle over, upon, or across any curb, central dividing section, or other separation or dividing line.

(b) Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb, section, separation, or line.

(c) Drive any vehicle except in the proper lane, in the proper direction, and to the right of the central dividing curb, separation, section or line.

(d) Drive any vehicle from a local service road except through an opening provided for that purpose in the dividing curb, section, or line which separates the service road from the highway or facility.

(e) Construct, operate, or maintain any road or private driveway connecting with the highway or facility without first obtaining permission in writing from the highway authority having jurisdiction and, with the exception of an interstate highway, from the local governing body.

(2) Any person who violates any of the provisions of this section is guilty of a misdemeanor. Upon arrest and conviction therefor, he shall be punished by a fine of not less than five dollars ($5) nor more than one hundred dollars ($100), or by imprisonment in the city or county

HeinOnline -- 1965 615 1965

jail for not less than five (5) days nor more than ninety (90) days, or by both fine and imprisonment.

Miscellaneous.

Chapter 11. MISCELLANEOUS.

Good Roads Day.

Section 11-101. **Good roads day.** The third Tuesday in June is hereby designated "Good Roads day." The governor may annually, by public proclamation, request the people of the state to contribute toward the improvement and safety of public highways.

Injuries to highways and trees.

Section 11-102. **Injuries to highways and trees.** (1) The malicious injury of any highway, bridge, private way, or guidepost or inscription thereon is punishable as provided in sections 94-3201 and 94-3202.

(2) Every person who, without authority, cuts down, or otherwise maliciously injures or destroys any shade or ornamental tree on any highway is punishable as provided in section 94-3202 (2).

Excavations across highways—permits and bridging.

Section 11-103. **Excavations across highways — permits and bridging.** (1) (a) Any person contemplating the excavation or construction of any ditch, dike, flume or canal across a public highway shall obtain a written permit from the board of county commissioners, road supervisor or county surveyor of said district before beginning construction or excavation.

(b) Any person obtaining said written permit shall bridge at once, in accordance with plans and specifications furnished by the board of county commissioners.

(2) Any such bridge shall be maintained by the county.

(3) Any person obtaining a construction permit or any person using the water of such ditch, dike, flume or canal shall keep the same in repair where such water may flow over or in any way injure a public highway.

Liability for permitting water to overflow.

Section 11-104. **Liability for permitting water to overflow.** (1) Every person who excavates or constructs or owns any ditch, dike, flume or canal, or stores, distributes or uses water for any purpose and permits the water to flow over any public highway to the injury thereof, must upon notification by the board of county commissioners, road supervisor or county surveyor of the district where such overflow occurred, repair the damages occasioned.

HeinOnline -- 1965 616 1965

If such repairs are not made within a reasonable time, the district must make them and recover the expense thereof in an action at law.

(2) Every person constructing, owning or using such ditch or flume who permits an overflow is liable as provided in section 94-3565.

Highway encroachments—power to remove.

Section 11-105. **Highway encroachments—power to remove.** (1) If any highway is encroached upon by fence, building, or otherwise, the road supervisor or county surveyor of the district must give notice, orally or in writing, requiring the encroachment to be removed from the highway.

(2) If the encroachment obstructs and prevents the use of the highway for vehicles, the road supervisor or county surveyor must immediately remove the same.

(3) The board of county commissioners may at any time order the road supervisor or county surveyor to immediately remove any encroachment.

Notice to remove encroachment.

Section 11-106. **Notice to remove encroachment.** (1) Notice to remove the encroachment immediately, specifying the breadth of the highway and the place and extent of the encroachment, must be given to the occupant or owner of the land or person owning or causing the encroachment.

(2) Notice must be given in the following manner:

(a) By leaving it at his place of residence if such person resides in the county; or

(b) By posting it on the encroachment, if such person does not reside in the county.

Penalty for failure to remove encroachment promptly.

Section 11-107. **Penalty for failure to remove encroachment promptly.** If the encroachment is not removed immediately, or removal is not diligently conducted, the one who causes, owns, or controls the encroachment is liable to a penalty of ten dollars ($10) for each day the same continues.

Removal of encroachment—actions—prosecution of offenses.

Section 11-108. **Removal of encroachment—actions—prosecution of offenses.** (1) If the encroachment is denied, the road supervisor shall commence in the proper court an action to abate the same as a nuisance. If he re-

HeinOnline -- 1965 617 1965

covers judgment, he may have his costs and ten dollars ($10) for every day such nuisance remained after notice.

(2) If the encroachment is not denied, and is not removed for five (5) days after notice is complete, the road supervisor or county surveyor may remove it at the expense of the owner or occupant of land, or of the person owning or controlling the encroachment. He may recover the expense of removal, ten dollars ($10) for each day the encroachment remained after notice, and costs in an action brought for that purpose.

Prosecution by county attorney.

Section 11-109. **Prosecution by county attorney.** The county attorney, upon complaint of the road supervisor, county surveyor, or any other person, shall prosecute all actions heretofore provided in the name of the state of Montana. All penalties shall be paid into the general fund of the county.

Dumping garbage or other debris or refuse.

Section 11-110. **Dumping garbage or other debris or refuse.** (1) It shall be unlawful to dump or leave any garbage, dead animal, or other debris or refuse:

(a) In or upon any highway, road, street, or alley of this state.

(b) In or upon any public recreational property, highway, street, or alley under the control of the state of Montana or any political subdivision thereof, or any officer or agent or department thereof.

(c) Within two hundred yards of such public highway, road, street, or alley, or public recreational property.

(2) Any person found guilty of a violation of this section shall be fined in the sum not exceeding twenty-five dollars ($25), or imprisoned in the county jail for a period not exceeding thirty (30) days, or be punished by both such fine and imprisonment, in the discretion of the court.

(3) The provisions of this section shall be enforced by all highway patrolmen, sheriffs, policemen, and all other enforcement agencies and officers of the state of Montana. In addition, game wardens shall have the right to enforce the provisions of this section in or upon any public recreational property.

Amending clause.

Section 12-101. Section 16-1004, R. C. M. 1947, is amended to read as follows:

HeinOnline -- 1965 618 1965

"Section 16-1004. *Roads,* **ferries, and bridges.** The board of county commissioners *under such limitations and restrictions as are prescribed by law may:* Roads, ferries and bridges—powers of county commissioners—limitations.

(1) Lay out, maintain, control, and manage county roads, ferries, and bridges within the county.

(2) Levy taxes therefor as provided by law.

(3) In the exercise of sound discretion, jointly with other counties, lay out, maintain, control, manage and improve county roads, ferries, and bridges in adjacent counties, wholly or in such part as may be agreed upon between the boards of the counties concerned.

(4) Levy taxes therefor as provided by law.

(5) Enter into agreements for adjusted annual contributions over not more than six (6) years toward the cost of joint highway or bridge construction projects entered into in cooperation with other counties, or the state or the United States.

(6) Place such a project in the budget and levy taxes therefor as provided by law."

Section 12-102. Section 16-2008, R. C. M. 1947, is amended to read as follows: Amending clause.

"Section 16-2008. **Board of county commissioners may issue bonds for certain purposes.** The board of county commissioners of every county of the state is hereby vested with the power and authority to issue, negotiate and sell coupon bonds on the credit of the county, as hereinafter in this act more specifically provided, for any of the following purposes: Board of county Commissioners may issue bonds for certain purposes.

(a). For the purpose of acquiring land for sites and grounds for a public building or buildings of any kind within the county and under its control, which the county has lawful authority to acquire or erect, control and maintain; for the purpose of acquiring land for any other public use or activity within the county, under its control and authorized by law. Land.

(b). For the purpose of constructing, erecting or acquiring by purchase necessary public buildings within the county, under its control and authorized by law, making additions to and repairing buildings and for the purpose of furnishing and equipping the same, and for the Buildings.

HeinOnline -- 1965 619 1965

purpose of building, purchasing, constructing and maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water.

Liquidation of debt.

(c). For the purpose of enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of any county boundary line.

Payment of warrants.

(d) For the purpose of funding, paying and retiring outstanding county warrants lawfully issued against the county general fund, road fund, bridge fund or poor fund, when there is not sufficient money in the fund against which such warrants are drawn to pay and retire such warrants and the levying of taxes sufficient to pay and retire such warrants within a period of three (3) years would, in the judgment of the board of county commissioners, work a hardship and be an undue burden upon the taxpayers of the county.

Redemption of bonds.

(e). For the purpose of refunding, paying and redeeming optional, redeemable or maturing bonds when there are not sufficient funds available to pay such bonds and it is deemed for the best interests of the county to refund such bonds.

Seed grain warrants and special relief warrants.

(f). For the purpose of funding, paying and retiring outstanding seed grain warrants lawfully issued under the provisions of section 4651, and for the purpose of funding, paying and retiring outstanding special relief warrants lawfully issued under the provisions of section 4692, when there is not sufficient money available to pay such warrants and the levying of special taxes sufficient to pay the same within a period of three (3) years would, in the judgment of the board of county commissioners, work a hardship and be an undue burden upon the taxpayers of the county.

Judgments.

(g). For the purpose of funding, paying in full or compromising, settling and satisfying any judgment which may have been rendered against the county in a court of competent jurisdiction, when there are not sufficient funds available to pay such judgment and when sufficient money cannot be raised to satisfy such judgment by an annual tax levy of ten (10) mills levied on all the taxable property within the county through a period of three (3) years.

HeinOnline -- 1965 620 1965

The resolution providing for the issue of such bonds must recite the facts concerning the judgment to be funded and the terms of any compromise agreement which may have been entered into between the board of county commissioners and the judgment creditor.

Indebtedness in excess of constitutional limitation.

(h). Whenever the total indebtedness of a county exceeds the constitutional limitation of five per centum (5%) of the value of the taxable property therein and the board of county commissioners of said county finds and determines that the county is unable to pay and discharge such indebtedness in full, the said board of county commissioners shall have the power and authority to negotiate with the holders of the bonds of said county for an agreement or agreements whereby said bondholders agree to accept less than the full amount of such bonds and the accrued unpaid interest thereon in full payment and satisfaction thereof, to enter into such agreement or agreements and to issue refunding bonds for the amount agreed upon. These bonds may be issued in more than one series if the circumstances so require and each series may be either amortization bonds or serial bonds.

The plan agreed upon between the board of county commissioners and the bondholders shall be embodied in full in the resolution providing for the issue of such bonds."

Amending clause.

Section 12-103. Section 16-2010, R. C. M. 1947, is amended to read as follows:

Limitation on amount of bonds—issuance in excess of limitations void.

"16-2010. **Limitation on amount of bonds—issuance in excess of limitations void.** No county shall issue bonds for any purpose which, with all outstanding bonds and warrants, except county high school bonds and emergency bonds, will exceed two and one-half per centum (2½%) of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the issuance of such bonds; provided, however, that a county may issue bonds which, with all outstanding bonds and warrants will exceed two and one-half per centum (2½%), but will not exceed five per centum (5%) of the value of such taxable property, when necessary to do so for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes; provided, how-

HeinOnline -- 1965 621 1965

ever, that this act shall not be construed to extend limitations on bonded indebtedness for county high school purposes, as fixed by section 75-4114, and acts amendatory thereof; and further provided, that the foregoing limitations shall not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932. All bonds issued by any county in excess of the limitations herein fixed shall be null and void. The words 'value of the taxable property,' as used in this section, are used in the same sense as in section 5 of article 13, of the constitution, and shall be given the same meaning and construction."

"Value of the taxable property."

Amending clause.

Section 12-104. Section 16-3302, R. C. M. 1947, is amended to read as follows:

County surveyor —contracted indebtedness—duties.

"Section 16-3302. **County surveyor to work under direction of county commissioners—approval of commissioners required to contract indebtedness—duties of county surveyor.** *(1)* The county surveyor shall work under the direction of the board of county commissioners, but shall have no power or authority to incur any indebtedness on the part of the county without the *prior* order or approval of the board.

(2) He shall make all surveys, establish all grades, and prepare plans, specifications, and estimates.

(3) He shall make progress reports and estimates of all work, and such other facts in relation thereto, as may be required by the board."

Section 12-105. Section 53-122, R. C. M. 1947, is amended to read as follows:

"Section 53-122. **Registration fees of motor vehicles—fees—fee for half year—dealer's registration and transfer thereof—public owned vehicles exempt from license or registration fees—license or registration fees for trailers, house trailers, semitrailers and tractors providing for deposit of all fees, other than license fees, except dealer license fees, collected by the registrar of motor vehicles, in the motor vehicle recording account for the payment of expenses of the maintenance and operation of the department of the registrar of motor vehicles.** Registration or license fees shall be paid upon registration or reregistration of motor vehicles, trailers, house trailers, semitrailers and dealers in motor vehicles or trailers in accordance with this act, as follows:

Registration or license fees.

HeinOnline -- 1965 622 1965

Dealers in motor vehicles other than motorcycles, a minimum fee of thirty dollars ($30.00) which shall entitle such dealer to two (2) sets of number plates, and five dollars ($5.00) additional fee for each additional set of number plates up to six (6) sets, and two dollars ($2.00) additional fee for each additional set of number plates, as may be applied for by such dealer; provided, that each dealer be required to furnish the registrar of motor vehicles a statement showing the makes of motor vehicles handled by him, and the total number of each make sold by him during the preceding year, and that he not be issued a license unless he so conforms; Fees.

Dealers in motorcycles, trailers including house trailers, fifteen dollars ($15.00);

Motor vehicles, weighing twenty-eight hundred and fifty (2850) pounds, or under, other than motor trucks, five dollars ($5.00);

Motor vehicles, weighing over twenty-eight hundred and fifty (2850) pounds, other than motor trucks ten dollars ($10.00);

Electrically driven passenger vehicles, ten dollars ($10.00);

All motorcycles, two dollars ($2.00);

Tractors and/or trucks, ten dollars ($10.00);

Buses shall be classed as motor trucks and licensed accordingly;

Trailers and semitrailers less than two thousand five hundred (2,500) pounds maximum gross loaded weight and house trailers of all weights, two dollars ($2.00);

Trailers and semitrailers over two thousand five hundred (2,500) up to six thousand (6,000) pounds maximum gross loaded weight, except house trailers, five dollars ($5.00);

Trailers and semitrailers over six thousand (6,000) pounds maximum gross loaded weight, ten dollars ($10.00);

Trailers used exclusively in the transportation of logs in the forest or in the transportation of oil and gas well machinery, road machinery and bridge material exclu-

HeinOnline -- 1965 623 1965

sively, new and secondhand, and trailers used exclusively for the transportation of road machinery and bridge materials, shall pay a fee of fifteen dollars ($15.00) annually, regardless of size or capacity.

All rates to be twenty-five per cent (25%) higher for motor vehicles, trailers and semitrailers, when not equipped with pneumatic tires.

Bicycles with motor attachment, one dollar ($1.00);

Tractors, as specified in this section, shall mean any motor vehicle, except passenger cars used for towing a trailer or semitrailer.

Fee for ½ year.

If any dealer, or motor vehicle, house trailer, trailer, or semitrailer is originally registered six (6) months after the time of registration as set by law, the registration or license fee for the remainder of such year shall be one-half (½) of the regular fee above given.

A dealer in motor vehicles or trailers who shall maintain more than one (1) place of business or who shall maintain any branch establishment or establishments, must register and pay a registration or license fee for each such place of business or establishment.

Dealer's registration and transfer.

A registered dealer, who may sell or dispose of his entire business to any other person, may have his certificate of registration transferred to such purchaser upon filing with the registrar of motor vehicles a statement containing the name of the registered dealer, the number under which such dealer is registered, the name of the purchaser, and the location of the place of business so sold. Upon the filing of such statement, accompanied by a filing fee of one dollar ($1.00), the registrar of motor vehicles shall note upon the registration record of such dealer the change of ownership. But no certificate of registration can be transferred unless the entire business of the dealer holding such certificate of registration be sold and disposed of, and no such certificate of registration can be transferred to any person other than the purchasers of such business.

Public owned vehicles exempt.

The provisions of this act with respect to the payment of registration fees shall not apply to or be binding upon motor vehicles, trailers or semitrailers or tractors owned or controlled by the United States of America or any

HeinOnline -- 1965 624 1965

state, county or city, but in all other respects the provisions of this act shall be applicable to and binding upon motor vehicles, tractors, trailers, and semitrailers.

Disposition of fees.

All fees, other than license fees, mentioned and described in sections 53-110 and 53-112, and in section 53-135, shall hereafter be deposited in, and paid into, the earmarked revenue fund and shall be used to pay all salaries, operating expenses, and all other expenses of the department of the registrar of motor vehicles. Any reference in this code to the motor vehicle recording fund or the motor vehicle administration fund shall be taken to mean the motor vehicle recording account in the earmarked revenue fund.

Whenever, in the judgment of the state board of examiners, there shall be in said motor vehicle recording account more moneys than are reasonably required or needed to pay all salaries, operating expenses, and all other expenses of the department of the registrar of motor vehicles, such board shall distribute such unneeded surplus or excess to the fifty-six (56) counties of the state in a pro rata manner based upon the total number of motor vehicles registered in each county.

Amending clause.

Section 12-106. Section 84-1831, R. C. M. 1947, is amended to read as follows:

Definitions.

"Section 84-1831. **Definitions.** As used in this act, the following definitions shall apply:

"Person."

(a) 'Person' means and includes any person, firm, association, joint stock company, syndicate, copartnership, or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment or both, as applied to a firm, association, syndicate, or copartnership, means and includes the partners or members thereof, and as applied to joint stock companies and corporations, the officers thereof.

"Board."

(b) 'Board' means the state board of equalization of the state of Montana.

"Public roads and highways of this state."

(c) As used in this act, 'public roads and highways of this state' shall mean all streets, roads, highways, and related structures as have been, or shall be, built and maintained with appropriated funds of the United States and which have been, or shall be, built and maintained

HeinOnline -- 1965 625 1965

with funds of the state of Montana, or any political subdivision thereof, or which have been or shall be dedicated to public use or have been acquired by eminent domain, *or have been acquired by adverse use by the public, jurisdiction having been assumed by the state or any political subdivision thereof.*

"Motor vehicle." (d) 'Motor vehicle' means any vehicle which is self-propelled upon the highways.

"Special fuel." (e) 'Special fuel' means those combustible gases and liquids commonly referred to as liquid petroleum gases and also diesel fuel or any other volatile liquid of less than forty-six degrees (46°) A. P. I. (American Petroleum Institute) gravity test, when actually sold for use in motor vehicles propelled upon the public highways or streets within the state of Montana.

"Use." (f) 'Use' means either the receipt, delivery or placing of special fuels by a special fuel dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him, while such vehicle is within this state, or the consumption by a special fuel user of special fuels in propulsion of a motor vehicle on the highways of this state.

"Special fuel dealer." (g) 'Special fuel dealer' means any person in the business of handling special fuel who delivers any part thereof into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him. For this purpose the term 'fuel supply tank or tanks' does not include cargo tanks even though fuel is withdrawn directly therefrom for propulsion of the vehicle.

"Special fuel user." (h) 'Special fuel user' means any person other than a county, incorporated city or town or school district of this state, who consumes in this state special fuel for the propulsion of motor vehicles owned or controlled by him upon the highways of this state.

"Bond." (i) 'Bond' means: (1) a bond duly executed by such special fuel dealer or special fuel user as principal with a corporate surety qualified under the laws of Montana, which bond shall be payable to the state of Montana conditioned upon faithful performance of all requirements of this act, including the payment of all taxes, penalties and other obligations of such special fuel dealer or special fuel user arising out of this act; or (2) a deposit with

HeinOnline -- 1965 626 1965

the state treasurer by the special fuel dealer or special fuel user under such terms and conditions as the board may prescribe of a like amount of lawful money of the United States or bonds or other obligations of the United States or the state of Montana or of any county thereof, of an actual market value not less than the amount so fixed by the board."

Amending clause.

Section 12-107. Section 94-3202, R. C. M. 1947, is amended to read as follows:

Injuries to milestones, guideposts, trees—violation.

"Section 94-3202. **Injuries to milestones,** *guideposts, trees. (1)* Every person who maliciously removes or injures any mileboard, post, or stone, or guidepost or any inscription on such, erected *on* any highway, is guilty of a misdemeanor.

(2) Every person who maliciously injures or destroys any shade or ornamental tree on any highway is guilty of a misdmeanor."

Amending clause.

Section 12-108. Section 94-3565, R. C. M. 1947, is amended to read as follows:

Ditch overflowing on highway.

"Section 94-3565. **Ditch overflowing on highway.** Every person who owns, *constructs or uses* a ditch or flume, and allows the water therein to *flow onto* a public highway, or in or upon the property of another, is punishable by a fine not exceeding one hundred dollars *($100)*."

Repealing clause.

Section 12-109. Sections 16-1004.1, 16-1118, 16-1127, 16-1128, 16-2009, 16-2201, 16-2202, 16-2203, 16-2204, 16-3311, 16-3312, 32-102, 32-103, 32-104, 32-105, 32-106, 32-107, 32-201, 32-202, 32-203, 32-204, 32-205, 32-206, 32-207, 32-208, 32-302, 32-303, 32-304, 32-305, 32-306, 32-307, 32-308, 32-309, 32-310, 32-311, 32-312, 32-313, 32-314, 32-316, 32-401, 32-402, 32-403, 32-404, 32-405, 32-406, 32-407, 32-408, 32-409, 32-410, 32-411, 32-412, 32-413, 32-415, 32-416, 32-501, 32-502, 32-503, 32-504, 32-505, 32-506, 32-507, 32-509, 32-510, 32-511, 32-512, 32-513, 32-514, 32-515, 32-516, 32-517, 32-518, 32-519, 32-520, 32-521, 32-522, 32-523, 32-524, 32-525, 32-526, 32-601, 32-602, 32-701, 32-702, 32-703, 32-704, 32-705, 32-706, 32-707, 32-708, 32-709, 32-710, 32-711, 32-713, 32-714, 32-715, 32-901, 32-902, 32-903, 32-904, 32-905, 32-1002, 32-1003, 32-1004, 32-1005, 32-1006, 32-1007, 32-1008, 32-1009, 32-1010, 32-1012, 32-1013, 32-1014, 32-1016, 32-1301, 32-1601, 32-1602, 32-1603, 32-1604, 32-1604.1, 32-1605, 32-1606, 32-1606.1, 32-1607, 32-1608, 32-1609, 32-

HeinOnline -- 1965 627 1965

1610, 32-1613, 32-1614, 32-1615, 32-1615.1, 32-1615.2, 32-1615.3, 32-1616, 32-1617, 32-1618, 32-1620, 32-1622, 32-1623, 32-1624, 32-1625, 32-1626, 32-1801, 32-1802, 32-1803, 32-1804, 32-1901, 32-1902, 32-1903, 32-1904, 32-1905, 32-1906, 32-1907, 32-1908, 32-1909, 32-1910, 32-1911, 32-1912, 32-1913, 32-1914, 32-1915, 32-2001, 32-2002, 32-2003, 32-2004, 32-2005, 32-2006, 32-2007, 32-2008, 32-2009, 32-2009.1, 32-2010, 53-615, 53-615.1, 53-616, 53-617, 53-618, 53-619, 53-621, 53-622, 53-623, 53-628, 53-629, 53-630, 53-631, 53-634, 53-635, 53-636, 53-637, 53-638, 53-639, 53-643, 84-1812 (1), 84-1812 (2), 84-1815, 84-1817, 89-821, 89-822, 94-3201, R. C. M. 1947, are repealed.

Severability clause.

Section 12-110. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Effective December 31, 1966.

Section 12-111. This act shall be effective on December 31, 1966.

Approved March 5, 1965.

CHAPTER 198

An Act Relating to the School Foundation Program; Providing for Changes in Financial Schedules for the Maximum General Fund Budgets for School Districts and County High Schools; Providing for the Financing of Such Budgets; Removing Requirement for Schedule Revision; Amending Sections 75-1713.1, 75-3616, 75-3618, 75-3619, 75-3706, 75-4516.1, and 75-4518.1, R. C. M., 1947; Containing a Repealing Clause; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-1713.1, R. C. M., 1947, is amended to read as follows:

Changes in budget when in excess of foundation program—restrictions.

"75-1713.1. **Changes in budget by budget board when in excess of foundation program—restrictions on budgets.** If the total amount of the proposed elementary general fund expenses in the preliminary budget of any district

HeinOnline -- 1965 628 1965

shall exceed the foundation program of such district, the budget board shall, in the manner and subject to the limitations prescribed by section 75-1713, reduce such proposed general fund expenses to a total equal to said foundation program unless the board of trustees of said district shall establish to the satisfaction of the budget board that special circumstances exist which justify such additional expenses, and in such event a statement of the reasons for the allowance of such additional expenses shall be attached to said budget and signed by the chairman of the budget board, but the entire amount of such excess expense over the foundation program shall be paid solely from levies upon the property in such district and shall not in any manner increase the amounts to be apportioned hereunder from the county common school levy or from the moneys available for state equalization aid; and provided, that, except in the case of the existence of the emergencies specified in section 75-1716, the entire amount of such additional expense over the foundation program plus the foundation program to be included in the budget of any district shall not be greater than the maximum amounts in accordance with the following schedules: provided that nothing herein contained shall be construed as preventing the voting of an additional levy in accordance with the general school laws pertaining to the voting of additional levies.

Elementary Schools

Elementary schools —ANB—maximum —computation.

(1) For each elementary school having an ANB of nine (9) or fewer pupils, the maximum shall be *fifty-six hundred thirty-one dollars ($5,631.00).*

(2) For schools with an ANB of ten (10) pupils, but less than eighteen (18) pupils, the maximum shall be *fifty-six hundred thirty-one dollars ($5,631.00) plus one hundred sixty-five dollars and fifty cents ($165.50)* per pupil on the basis of the average number belonging over nine (9).

(3) For schools with an ANB of eighteen (18) pupils and employing one teacher, the maximum shall be *seventy-one hundred nineteen dollars ($7,119.00) plus sixty-six dollars and twenty-five cents ($66.25)* per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB over twenty-five (25).

HeinOnline -- 1965 629 1965

(4) For schools with an ANB of eighteen (18) pupils and employing two full-time teachers, the maximum shall be *twelve thousand seven hundred eighty-six dollars ($12,786.00) plus sixty-six dollars and twenty-five cents ($66.25)* per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB over fifty (50).

(5) For schools having an ANB in excess of forty (40) the maximum on the basis of the total pupils (ANB) in the district for elementary pupils will be as follows:

For a school having an ANB of more than forty (40) and employing a minimum of three (3) teachers, the maximum of *four hundred fifty dollars and fifty cents ($450.00)* shall be decreased at the rate of *thirty-four cents ($0.34)* for each additional pupil until the total number (ANB) shall have reached a total of one hundred (100) pupils. For a school having an ANB of more than one hundred (100) pupils, the maximum of *four hundred thirty dollars and thirty-six cents ($430.36)* shall be decreased at the rate of *forty cents ($0.40)* for each additional pupil until the ANB shall have reached three hundred (300) pupils. For a school having an ANB of more than three hundred (300) pupils, the maximum shall not exceed *three hundred forty-nine dollars and eighty cents ($349.80)* for each pupil; provided that the maximum per pupil, for all pupils, ANB, shall figure on the basis of the amount allowed herein on account of the last eligible pupil, ANB, and provided further that all schools operated within the incorporated limits of a city or town shall be treated as a school unit for the purpose of this schedule.

The maximum per pupil for all pupils (ANB) and for all schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB."

Amending clause.

Section 2. Section 75-3616, R. C. M., 1947, is amended to read as follows:

Distribution of funds—reports.

"75-3616. **Distribution of funds — reports required.** After July 1, 1949, the state board of education shall, in the months of December and April of each year, order disbursements of state equalization aid within the limitations hereinafter specified and upon the basis of reports made to the state superintendent of public instruction, to any county treasurer who controls the fund of any school district or joint school district which, as established by

HeinOnline -- 1965 630 1965

its budget duly approved for the current school year, will not have sufficient funds to maintain the foundation financial program after receipt by it *of* its apportioned share of interest and income moneys, if any, and from the basic county levies provided for by section 75-3706 and section 75-4516.1. *The school district budgets approved and adopted according to law for the current school year, and so verified by the state superintendent of public instruction, shall be the basis for distributing state equalization aid, and the state board of education shall not increase or reduce the state equalization aid to which any school district or county high school is entitled for any school year on the basis of its budget, on account of any difference which may occur during the year between budgeted and actual receipts from any other source of school revenue.*

Basis for distribution.

Each order of the state board of education for disbursements of state equalization aid, shall be certified to the state auditor and state treasurer, whereupon the state auditor shall draw his warrants in accordance with such order and the state treasurer shall pay the same to the several county treasurers for credit to the school districts as provided in such order.

Order for disbursements.

Any undistributed state equalization aid remaining at the end of any fiscal year shall be distributed in accordance with the following provisions, for the purpose of reducing the amount of the basic county levy for high schools to be levied in the ensuing fiscal year.

Undistributed aid —disposition —computation.

(1) The unexpended balance of the general fund appropriation for state equalization aid shall be added to the unexpended moneys in the earmarked revenue fund account designated for state equalization aid;

(2) The sum obtained in paragraph (1) shall be divided by the statewide total average number belonging which was verified as the basis for all foundation programs for the year ended June 30 to obtain a per pupil payment amount;

(3) For each county, the per pupil payment amount shall be multiplied by the verified ANB for all foundation programs in the county for the year ended June 30 to obtain a county payment amount;

(4) For each county an amount equivalent to the county payment obtained in paragraph (3) shall be transmitted

HeinOnline -- 1965 631 1965

by the state treasurer to the county treasurer on or before July 20 of the immediately ensuing fiscal year, and the county superintendent of schools shall be notified of such amount by the state superintendent of public instruction. The county treasurer shall credit the payment to the account for the basic special tax for high schools as provided in section 75-3722.

(5) The amount of revenue anticipated from the basic county levy for high schools as provided in section 75-4516.1 shall be computed from the number of mills required for such levy and the taxable valuation of all taxable property within the county.

(6) The county payment amount obtained in paragraph (4) shall be deducted from the basic county levy amount obtained in paragraph (5), and the remainder shall be the amount of the basic county levy to be fixed for high schools for the ensuing year; the number of mills of such basic county levy for high schools shall be based on the amount so obtained, together with the taxable valuation of all taxable property within the county.

Exclusion.

In any year when application of the provisions of this section would result in a per pupil payment amount of less than one dollars ($1.00), the provisions of this section shall not apply."

Amending clause.

Section 3. Section 75-3618, R. C. M., 1947, is amended to read as follows:

Distribution of available districts —apportionment formula for county funds.

"75-3618. **Distribution of money available to districts —formula for apportionment of county funds.** After the deduction of transportation reimbursements provided by law, the proceeds of the basic county *twenty-four (24)* mill common school levy as provided for in section 75-3706 and the proceeds of the basic special tax for high schools, as provided for in section 75-4516.1 shall each be separately distributed by the county superintendent to the respective districts in the county, and the county high school if there be one, in proportion to their needs under the foundation financial program. In all cases in which the proceeds of such basic county levy when added to interest and income moneys available to the respective districts, and other funds which must be used in support of the foundation financial program are insufficient to finance the foundation financial program, the proceeds

HeinOnline -- 1965 632 1965

of the basic county common school levy and the proceeds of the basic county special tax for high schools shall each be separately distributed in accordance with the following procedure; provided, however, that cash balances to the credit of the district at the end of the school year, after authorized reserves have been subtracted as well as outstanding warrants, shall be used by the district to reduce the levies on the district for the general fund after county and state equalization aid have been received:

Disposition of cash balances at the end of the school year.

1. Determine the ratio that the total funds available to all districts in the county in support of the foundation program (including proceeds of the basic county levy) bears to the total costs of the foundation program for all such districts.

2. Determine the ratio that the total funds available to each district in support of the foundation program (excluding all proceeds of the basic county levy) bears to the cost of the foundation program of each such district.

3. Districts in which the ratio as determined in (2) above exceeds the ratio in (1) above shall not be entitled to distribution of such county funds but shall be excluded from further consideration under this section.

4. After elimination of districts referred to in (3) above, determine the ratio that the total funds available to all remaining districts in the county in support of the foundation program (including proceeds of the basic county levy) bears to the total cost of the foundation program of all such remaining districts. Each remaining district shall then be entitled to distribution of funds from the basic county levy, which, when added to all other funds available to such district in support of the foundation program shall be sufficient to finance such proportionate part of its foundation program.

5. No district school shall be deprived of its needful share of either county levy by reason of it being nonaccredited.

Nonaccredited schools.

6. No territory situated within the county shall be excluded from the distribution of the school funds of the county solely because such territory lies within the boundaries of a joint district."

Joint districts.

HeinOnline -- 1965 633 1965

Amending clause.

Section 4. Section 75-3619, R. C. M., 1947, is amended to read as follows:

Formula for distribution of state funds.

"75-3619. **Formula for distribution of state funds.** At any time when the total requirements of the several counties of the state for state equalization aid in support of the elementary school and high school foundation financial programs of the school districts within said counties shall exceed the funds available, the funds on hand shall, subject to the limitation hereinafter specified, be apportioned and paid out to the several county treasurers in accordance with the following procedure:

(1) Determine the ratio that the total funds available to all counties in the state in support of the foundation financial program (including the funds available for state equalization aid) bears to the total cost of the foundation financial program in all counties.

(2) Determine the ratio that the total funds available to each county in support of the foundation financial program (excluding any payment for state equalization aid) bears to the cost of the foundation financial program of all school districts of the county.

(3) Counties in which the ratio, as determined in (2) above, exceeds the ratio in (1) above, shall not be entitled to distribution of state equalization *aid* but shall be excluded from further consideration under this section.

(4) After elimination of counties referred to in (3) above, determine the ratio that the total funds available to all remaining counties in support of the foundation financial program (including the total amount available for state equalization aid), bears to the total cost of the foundation financial program of all such remaining counties. Each remaining county shall then be entitled to distribution of funds for state equalization aid, which, when added to all other funds available to such county in support of the foundation financial program, shall be sufficient to finance such proportionate part of the total foundation financial program of all school districts in the county.

County superintendent to distribute funds received.

The county superintendent of schools shall distribute the funds received by such county from the state for state equalization aid to the respective elementary districts and high schools in proportion to the needs of each re-

HeinOnline -- 1965 634 1965

spective elementary district and high school under the foundation financial program, such distribution to be made by applying to the receipts from the state for state equalization aid the formula provided in section 75-3618 for the distribution of the proceeds of basic county levies."

Amending clause.

Section 5. Section 75-3706, R. C. M., 1947, is amended to read as follows:

Common school levy.

"75-3706. (1202) **Common school levy.** In addition to the provisions for the support of the common schools, hereinbefore provided, it shall be the duty of the county commissioners of each county in the state to levy an annual basic tax of *twenty-four (24)* mills on the dollar of the taxable value of all taxable property within the county, which levy shall be made at the time and in the manner provided by law for the levying of taxes for county purposes, which tax shall be collected by the county treasurer at the same time and in the same manner as state and county taxes are collected; provided that if a basic levy of less than *twenty-four (24)* mills should be sufficient to meet the total of the approved budgets of all school districts within the county, then such lesser basic levy shall be made, but no school district within a county levying less than the basic *twenty-four (24)* mills shall receive any apportionment *of* state equalization *aid*; it shall be the duty of the board of county commissioners to levy, if necessary, an additional tax in such number of mills on the taxable value of all taxable property within *the county* as shall be required to provide the foundation program for *all school districts within the county. The county superintendent shall opportion the proceeds of such additional tax levy to each school district within the county after apportionment of the basic county common school levy as provided in section 75-3618 and the state equalization aid as provided in section 75-3619.*

Basic levy required for state aid—additional tax.

Fines for violation of law.

For the further support of the common schools, there shall also be set apart by the county treasurer all moneys paid into the county treasury arising from all fines for violations of law, unless otherwise specified by law. Such moneys shall be forthwith paid into the county treasury by the officer receiving the same, and be added to the yearly school fund raised by taxation."

Amending clause.

Section 6. Section 75-4516.1, R. C. M., 1947, is amended to read as follows:

HeinOnline -- 1965 635 1965

Levy of taxes—basic high school levy.

"75-4516.1. **Levy of taxes.** (1) **Basic high school levy.** *It shall be the duty of the county commissioners of each county in the state to levy an annual basic special tax for high schools of fourteen (14) mills on the dollar of the taxable value of all taxable property within the county, which levy shall be made at the time and in the manner provided by law for the levying of taxes for county purposes and which tax shall be collected by the county treasurer at the same time and in the same manner as state and county taxes are collected; provided that if a basic levy of less than fourteen (14) mills should be sufficient to meet the total of the approved budgets of all school districts and county high schools within the county, then such lesser basic levy shall be made.*

Basic levy required for state aid.

No county levying less than the basic high school levy shall receive any apportionment of state equalization aid.

Additional high school levy.

(2) **Additional high school levy.** The county commissioners shall, if necessary, levy an additional tax in such number of mills on the taxable value of all taxable property within the county as shall be required to provide the foundation program for all school districts and county high schools within the county. The county superintendent shall apportion the proceeds of such additional tax levy to each school district and county high school within the county after apportionment of the basic special tax for high schools as provided in section 75-3618 and the state equalization *aid* as provided in section 75-3619.

Permissive high school levy.

(3) **Permissive high school levy.** If the revenues for the operation and maintenance of any high school, including the amount apportionable from said basic special tax for high schools and the amount, if any, produced by said additional high school tax, shall be less than the foundation program of such high school and the approved additions thereto included in its budget, within the limitations hereinbefore specified, it shall be the further duty of the board of county commissioners to fix and levy a tax, in such number of mills as will produce the amount shown by the final budget to be raised by tax levy plus federal reimbursements in lieu of taxes, which tax shall, in the case of a county high school not located within a building district, be levied upon all property in the county, excepting the property of any district supporting a district high school, and shall, in the case of a

HeinOnline -- 1965 636 1965

county high school located within a high school building district, be levied upon all property in such building district and which tax shall, in the case of a district high school not located within a building district, be levied upon all property within the school district, and shall, in the case of a district high school located within a building district, be levied upon all property in such building district, provided, however, that such last mentioned additional tax shall not, in any event, be used to raise funds in excess of the maximum budgets as specified in section 75-4518.1 when considered with all other sources of revenues, unless approved by a vote of the taxpaying electors."

Amending clause.

Section 7. Section 75-4518.1, R. C. M., 1947, is amended to read as follows:

Reduction in budget—allowance of additional expenses.

"75-4518.1. **Reduction in budget by budget board—allowance of additional expenses over foundation program.** If the total amount of the proposed general fund expenses in the preliminary budget of any district or county high school shall exceed the foundation program thereof, the budget board shall, in the manner provided by section 75-4518, reduce such proposed general fund expenses to a total equal to said foundation program unless the board of trustees of said district or county high school shall establish to the satisfaction of the budget board that special circumstances exist which justify such additional expenses, and in such event a statement of the reasons for the allowance of such additional expenses shall be attached to said budget and signed by the chairman of the budget board, but the allowance of such excess expense over the foundation program shall not in any manner increase the amounts of state equalization aid to be apportioned hereunder; and provided that, except in the case of the existence of the emergencies specified in section 75-4521, the entire amount of such additional expense over the foundation program to be included in any high school budget including any reserve fund, not to exceed thirty-five per cent (35%) of the amount appropriated in the final and approved budget for the then current school year, for the purpose of maintaining the elementary and high school of the district from July 1 to November 30 of the next succeeding year, plus the foundation program shall not be greater than the maximum amounts in accordance with the following schedules, provided that nothing herein contained shall be construed as preventing

HeinOnline -- 1965 637 1965

the voting of an additional levy in accordance with the general school laws pertaining to the voting of additional levies.

High schools—ANB—maximum.

High Schools

(1) For each high school having an ANB of twenty-four (24) or fewer pupils, the maximum shall be *twenty-seven thousand thirty dollars ($27,030.00).*

(2) For a secondary school having an ANB of more than twenty-four (24) pupils, the maximum *eleven hundred twenty-six dollars ($1,126.00)* shall be decreased at the rate of *seven dollars and forty-two cents ($7.42)* for each additional pupil until the ANB shall have reached a total of forty (40) such pupils. For a school having an ANB of more than forty (40) pupils, the maximum of *one thousand seven dollars ($1,007.00)* shall be decreased at the rate of *five dollars and three cents ($5.03)* for each additional pupil until the ANB shall have reached one hundred (100) pupils. For a school having an ANB of more than one hundred (100) pupils, a maximum of *seven hundred four dollars and ninety cents ($704.90)* shall be decreased at the rate of *one dollar and sixty-four cents ($1.64)* for each additional pupil until the ANB shall have reached two hundred (200) pupils. For a school having an ANB of more than two hundred (200) pupils, the maximum of *five hundred forty dollars and sixty cents ($540.60)* shall be decreased by *thirty-seven cents ($0.37)* for each additional pupil until the ANB shall have reached three hundred (300) pupils. For a school having an ANB of more than three hundred (300) pupils, the maximum of *five hundred three dollars and fifty cents ($503.50)* shall be decreased at the rate of *ten cents ($0.10)* until the ANB shall have reached six hundred (600) pupils. Schools having an ANB in excess of six hundred (600) pupils shall receive *four hundred seventy-four dollars and eighty-eight cents ($474.88)* per pupil.

Computation of maximum.

The maximum per pupil for all pupils (ANB) and for all schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil, ANB.

Schools considered.

In computing the amount for the foundation program and the maximum program only junior high schools which have been approved and accredited by the state board of education shall be considered a part of the secondary enrollment."

HeinOnline -- 1965 638 1965

Section 8. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 9. This act is effective immediately upon passage and approval. Effective immediately.

Approved March 6, 1965.

CHAPTER 199

An Act for the Codification and General Revision of the Laws Relating to the Department of Institutions and the Following Institutions: Montana Veterans' Home, State Hospital, State Prison, State Pulmonary Disease Hospital, Montana Center for the Aged, State Industrial School, State Training School and Hospital, Montana Children's Center and State Vocational School for Girls; Amending Sections 10-504, 10-506, 10-507, 10-509, 10-512, 10-612, 10-632, 16-2723, 16-3410, 69-317, 69-318, 69-2308, 75-3002, 82-401, 82-602, 82-1014, 82-1131.1, 82-1202, 82-1301, 82-2202, 82-1914, 91-105, 91-106, 94-35-264, 94-8020, 94-8022, and 94-8023, R. C. M. 1947, and Repealing Sections 10-101, 10-101.1, 10-102, 10-105, 10-110 Through 10-114, 10-118 Through 10-121, 38-101, 38-102, 38-104, 38-712 Through 38-724, 38-802, 38-804 Through 38-807, 38-810, 38-811, 38-813 Through 38-816, 38-819, 38-1001, 38-1002, 38-1003, 38-1101, 38-1106, 38-1108 Through 38-1112, 72-144, 80-201, 80-206, 80-207, 80-209, 80-210.1, 80-215, 80-302, 80-303, 80-308, 80-310, 80-311, 80-313, 80-316, 80-320, 80-601 Through 80-608, 80-701 Through 80-705, 80-707, 80-707.1, 80-707.2, 80-707.3, 80-707.4, 80-707.5, 80-708 Through 80-715, 80-719, 80-720, 80-731, 80-732, 80-733, 80-738, 80-740, 80-740.1, 80-742, 80-743, 80-745, 80-746, 80-748, 80-806, 80-807, 80-809, 80-811, 80-815 Through 80-824, 80-902, 80-903, 80-911, 80-915, 80-918 Through 80-929, 80-1001 Through 80-1006, 80-1101, 80-1201 Through 80-1212, 80-1301 Through 80-1306, 80-1103, 82-2801 Through 82-2803, 94-35-152, 94-35-152.1 Through 94-35-152.18, R. C. M. 1947.

It is the intent of the legislative assembly that all nonamendatory sections of this bill be codified in Title 80, Revised Codes of Montana, 1947, with the subject Codification.

HeinOnline -- 1965 639 1965

matter under each heading assigned to a separate chapter of that title.

Be it enacted by the Legislative Assembly of the State of Montana:

State department of institutions —purpose.

STATE DEPARTMENT OF INSTITUTIONS

Section 1. The purpose of the legislative assembly in creating a state department of institutions is to utilize at maximum efficiency the resources of state government in a coordinated effort to restore the physically or mentally disabled, to rehabilitate the violators of law, to sustain the vigor and dignity of the aged, to provide for children in need of temporary protection or correctional counseling, to train children of limited mental capacity to their best potential, to rededicate the resources of the state to the productive independence of its now dependent citizens, and to coordinate and apply the principles of modern institutional administration to the institutions of the state.

"Department."

Section 2. As used in this act, unless the context clearly indicates otherwise:

"Director."

(1) "Department" means the state department of institutions.

"Board."

(2) "Director" means the director of the state department of institutions.

"Institution."

(3) "Board" means the state board of institutions.

Institutions.

(4) "Institution" means any of the institutions listed in section 3 of this act.

Section 3. The following institutions are in the state department of institutions:

(1) State Pulmonary Disease Hospital

(2) Montana Veterans' Home

(3) State Prison

(4) Montana Children's Center

(5) State Vocational School for Girls

(6) State Industrial School

(7) State Training School and Hospital

(8) State Hospital

(9) Montana Center for the Aged

HeinOnline -- 1965 640 1965

No state institution may be moved, discontinued or abandoned without prior consent of the legislative assembly. Moving, discontinuance or abandonment.

Section 4. The board shall appoint the director, who is the chief executive and administrative officer of the department. The director shall be a person qualified by experience, training and professional competence in institutional rehabilitation and treatment management. The function of the director, in addition to other duties assigned to him by law, is to execute the policies established by the board. The director shall appoint employees for the central office of the department. The board shall appoint and after hearing held discharge the warden or superintendents of institutions. Director—appointment, qualifications, duties.

Section 5. The board shall: Board—duties.

(1) Adopt general rules and regulations, not inconsistent with law, for the government of the department. Such rules and regulations may govern and provide for Rules and regulations.

(a) The admission, custody, transfer and release of residents of institutions except as otherwise provided by law. However, no such rules and regulations shall amend or alter the statutory powers and duties of the state board of pardons.

(b) The manufacture, production, acquisition, use, and transfer of materials, supplies, and produce, for and between institutions.

(c) The custody, expenditure, and receipt of moneys at institutions.

(d) Employment of personnel in institutions.

(2) Report to the governor before the first day of November of each year and to the legislative assembly before the second Monday of each biennial legislative session. The reports shall fully describe the activities of the department and shall contain recommendations for any changes in programs or the passage of any laws necessary for the improvement of the department. Report to governor and legislative assembly.

(3) Review and approve all budget requests for institutions prior to submittal to the director of the budget. Budget.

(4) Subject to the provisions of "The Department of Administration Act," lease or purchase lands for use by Lands.

HeinOnline -- 1965 641 1965

institutions, and classify such lands to determine which are of such character as to be most profitably used for agricultural purposes, taking into consideration the needs of all institutions for the food products that can be grown or produced on the lands, and the relative value of agricultural programs in the treatment or rehabilitation of the person confined in institutions.

Utilize state agencies.

(5) Utilize the staff and services of other state agencies and units of the university of Montana, within their respective statutory functions, to carry out the purposes of this act.

Programs—facilities.

(6) Propose programs to the legislative assembly to meet the projected long range needs of institutions, including programs and facilities for the diagnosis, treatment, care, and aftercare of persons placed in institutions.

Programs—disabilities.

(7) Encourage the establishment of programs at the local level for the prevention and rehabilitation of physical and mental disability.

Warden or superintendent—responsibilities and duties.

Section 6. The warden or superintendents of institutions in the department are responsible for the immediate management and control of their respective institutions, subject to the general policies and programs established by the department. Except as otherwise provided by law, the warden or superintendent of each institution may appoint and employ all necessary assistants and employees, subject to approval by the director as to number, salary, classification and qualification. The warden or superintendent of an institution, subject to approval by the director and the board, may appoint a local advisory committee, without obligation to the state, to serve as a liaison agency with the community in which the institution is located. The warden and superintendents comprise a council of superintendents which shall meet periodically with the board.

State board of institutions—appointment of members—term—qualifications.

Section 7. The state board of institutions consists of five (5) members appointed by the governor with the advice and consent of the Senate. The appointees shall be selected so that not more than three (3) are from the same congressional district and so that not more than three (3) are affiliated with the same political party. An appointment to replace a member whose term has expired shall be for five (5) years. An appointment to replace a member whose term has not expired shall be

HeinOnline -- 1965 642 1965

for the remainder of the term. Board members shall be qualified by aptitude, experience and interest.

Board—officers —compensation.

Section 8. The board shall elect a chairman and other necessary officers. Board members shall receive twenty-five dollars ($25.00) per day for attending meetings or in the discharge of other board duties when assigned by the board. Board members shall also be reimbursed for actual and necessary expenses incurred in attending meetings and in the discharge of other board duties when assigned by the board. The director shall act as secretary of the board.

Board—function —meetings —quorum.

Section 9. The function of the board, in addition to other duties assigned to it by law, is to establish general policies for the management of the department of institutions, and to advise and consult with the governor and director on the management of institutions. The board shall meet bi-monthly and may hold additional meetings on the call of the chairman, or at the request of the director or any two members of the board. Three members constitute a quorum for the transaction of business.

INSTITUTIONAL INDUSTRIES

Institutional industries.

Section 10. The department of institutions may

Production of goods.

(1) Establish industries in institutions which will result in the production or manufacture of goods that may be needed by institutions and other state agencies and that will assist in the rehabilitation of residents in institutions.

Print catalogs.

(2) Print catalogs describing goods manufactured or produced by institutions and distribute the catalogs.

Price of goods.

(3) Fix the sale price for goods produced or manufactured at institutions. Such prices shall not exceed prices existing in the open market for goods of comparable quality.

Purchase of goods.

(4) Require institutions to purchase needed goods from other institutions.

Repair and maintenance.

(5) Provide for the repair and maintenance of property and equipment of institutions by residents of institutions.

HeinOnline -- 1965 643 1965

(6) Provide for the repair and maintenance at an institution of furniture and equipment of any state agency.

License plates.

(7) Provide for the manufacture at an institution of motor vehicle license plates and other articles needed by the registrar of motor vehicles.

Agricultural products and livestock.

(8) In case of emergency, and with the approval of the board, sell agricultural products and livestock on the open market. Receipts from such sales shall be deposited in the general fund.

Highway, road and street marking signs.

(9) Provide for the manufacture at an institution of highway, road, and street marking signs for the use of the state or any of its political subdivisions.

Pay for prison inmate—criteria.

(10) Pay an inmate of the state prison an amount not exceeding fifty cents ($.50) per day as an incentive for the performance of work, based on the following criteria:

(a) Knowledge and skill

(b) Attitude toward authority

(c) Physical effort

(d) Responsibility for equipment and materials

(e) Regard for safety of others.

All such wages shall be paid from receipts from the sale of goods produced or manufactured at the institution where the resident resides.

Receipts from sale of goods.

Section 11. Except as provided in subsection (8) of Section 10 of this act, receipts from the sale of goods produced or manufactured by an institution shall be deposited in the earmarked revenue fund for the use of the industries program of the institution.

Prohibition of sale of goods to public.

Section 12. (1) Except as provided in subsection (8) of Section 10 of this act, and except for articles made by a resident of an institution for his own profit, the sale or exchange, directly or indirectly to the consuming public of goods produced or manufactured at an institution, is prohibited.

Exchange.

(2) The exchange of goods produced by an institution for the products of any other state is prohibited.

HeinOnline -- 1965 644 1965

(3) Except where specifically permitted by the department of institutions, arranging for the labor of a resident of an institution is prohibited. Labor of resident of institution.

PAYMENTS FOR THE CARE OF RESIDENTS OF INSTITUTIONS

Payments for care of institutional residents.

Section 13. The state department of institutions shall collect and process per diem payments for the care of residents in the following institutions: Institutional residents—per diem.

(1) Montana Children's Center

(2) State Hospital

(3) State Training School and Hospital

(4) State Pulmonary Disease Hospital

(5) Montana Veterans' Home

(6) Montana Center for the Aged

Section 14. As used in sections 13 through 16 of this act

(1) "Full-time equivalent resident load" means the total daily resident count for the fiscal year divided by the number of days in the year. "Full-time equivalent resident load."

(2) "Per diem" means the gross daily cost of operating an institution, excluding capital outlay for physical plant and the cost of educational programs, divided by the full-time equivalent resident load. The per diem may be computed separately for distinctly different programs at multi-purpose institutions. "Per diem."

(3) "Resident" means any person who is receiving care from, or who is a resident of, an institution listed in section 13 of this act. "Resident."

(4) "Responsible person" means a person responsible for the support and maintenance of a resident. "Responsible person."

Section 15. (1) The department shall assess monthly against each resident or responsible person the appropriate per diem charge. If the resident is an Indian who is a ward of the federal government, the per diem charge shall be assessed against the appropriate agency of the federal government. The per diem shall be computed on July 1 of each year by the director of institutions. Assessment of per diem charge.

HeinOnline -- 1965 645 1965

Application for less or none of per diem charge —investigation —report—appeal.

(2) A resident or responsible person may apply to the department for permission to pay less than the per diem charge or none of the per diem charge. On receipt of such an application, the department shall request an investigation by the county department of public welfare of the county in which the resident or responsible person is a resident. The county department of public welfare shall submit to the department, on forms furnished by the department, no later than sixty (60) days after the request, a report and recommendation on the ability of the resident or responsible person to pay all or a part of the per diem charge. Upon receipt of the report, the department shall determine, based on the financial ability of the resident or responsible person, whether the resident or responsible person shall be charged with the full amount, a lesser amount, or whether no charge against the resident or responsible person shall be made. If a resident or responsible person disagrees with the determination of the department, an appeal may be filed within thirty (30) days of the determination with the state board of institutions.

Review of per diem payments— no release for nonpayment if medically inadvisable.

(3) The department may, at any time, review and change any determination for per diem payments, and may, if necessary, request a further investigation by a county department of public welfare. In any case, however, no resident of an institution shall be released by reason of the nonpayment of the per diem, if in the judgment of the superintendent of the institution at which he is a resident, such release is medically inadvisable.

Disposition of per diem payments.

(4) All per diem payments received by the department shall be deposited in the state treasury to the credit of the general fund.

Civil action may be brought for nonpayment.

Section 16. If a resident or responsible person liable for per diem payments due under this act refuses or fails to make such payments, the payments are collectable by a civil suit brought in the name of the state of Montana. The state of Montana may sue a resident or responsible person for payments due; and any judgment obtained is a lien upon the real property of such person, and shall be collected as other judgments. A claim arising under this act has the same force and effect against the real and personal property of a deceased person as other

HeinOnline -- 1965 646 1965

debts of a decedent, and shall be ascertained and recovered in the same manner.

STATE PULMONARY DISEASE HOSPITAL

State Pulmonary Disease Hospital.

Section 17. (1) The institution located at Galen is the State Pulmonary Disease Hospital and, as its primary function, provides: Primary function.

(a) Treatment of tuberculosis and silicosis (commonly called miner's consumption).

(2) If there are space and funds available, the hospital shall also treat the following: Treatment upon availability.

(a) Emphysema, bronchiectasis, carcinoma of the lung and other diseases of the lung pertaining to pulmonary disorders.

(b) Geriatric and senile patients afflicted with pulmonary disorders and patients who are residents of another state institution.

Section 18. The superintendent of State Pulmonary Disease Hospital shall be a physician legally qualified to practice medicine in Montana with at least four years in the practice of his profession, including at least one year's experience in a general hospital. Superintendent —qualifications.

Section 19. A mentally retarded or mentally ill person residing at State Pulmonary Disease Hospital may be transferred to the State Hospital, the Montana Center for the aged, or the State Training School and Hospital with the approval of the department of institutions, if the department determines that the transfer will be in the best interests of the patient. Unless a medical or psychiatric emergency exists, fifteen (15) days prior to the transfer the department shall send notice of the proposed transfer to the patient's parent, guardian, or spouse, or if none is known, his nearest relative or friend. In the case of an emergency transfer, the department shall send notice within seventy-two (72) hours after the time of transfer. Transfer of person having mental disorder.

MONTANA VETERANS' HOME

Montana Veterans' Home.

Section 20. The institution at Columbia Falls is the "Montana Veterans' Home" and, as its primary function, provides home and subsistence for honorably discharged Primary function.

HeinOnline -- 1965 647 1965

veterans. The department may also admit wives or widows of honorably discharged veterans to the home if space allows.

Superintendent —qualifications.

Section 21. The superintendent of the Montana Veterans' Home shall be an honorably discharged veteran of the armed forces of the United States.

Eligibility for residence.

Section 22. To be eligible for residence in the Montana Veterans' Home under the regulations prescribed by the state department of institutions a person shall

(1) Be an honorably discharged veteran, or the wife or widow of a veteran, who served in the armed forces of the United States.

(2) Be an invalid and have become unable to earn a livelihood as a result of the disability.

(3) Have resided in Montana for a period of two years immediately prior to making application for admittance.

(4) Not have been convicted of a felony or of a crime involving moral turpitude.

(5) Not be an alcoholic or have a record of habitual inebriation.

(6) If a woman, be fifty (50) years of age or older.

Moneys from federal government.

Section 23. The state department of institutions may accept moneys from the federal government that become available to the state as a result of operating the Montana Veterans' Home and shall deposit such moneys in the state treasury for the benefit of the home. If a resident of the home is transferred to another institution, the department of institutions shall continue to draw from the federal government any moneys available for the maintenance of such former resident.

State prison.

STATE PRISON

Primary function.

Section 24. The institution at Deer Lodge is the "State Prison" and as its primary function provides facilities for the custody, treatment, training and rehabilitation of adult criminal offenders.

Warden— qualifications.

Section 25. The warden of the State Prison shall be a person trained through education and experience in

HeinOnline -- 1965 648 1965

directing a training, rehabilitation or custodial program in a penal institution.

Day's work.

Section 26. A period of eight hours in each period of twenty-four consecutive hours constitutes a day's work for all employees of the state prison. The staff of correctional personnel shall not work more than forty-eight hours or six days a week except in cases of riots, escapes or other emergencies endangering health, life, or property.

Punishment —limitation.

Section 27. No barbarous punishments may be prescribed for an inmate of the state prison, nor shall an inmate, as punishment, be deprived of his normal provision of food while being compelled to work the usual number of hours per day.

Good time allowance.

Section 28. (1) The state department of institutions shall adopt rules and regulations providing for the granting of good time allowance for inmates employed in any prison work or activity. The good time allowance shall operate as a credit on his sentence as imposed by the court, conditioned upon the inmate's good behavior and compliance with the rules and regulations made by the department or the warden. The rules adopted by the department may not grant good time allowance to exceed:

Good time allowance not to exceed.

(a) ten (10) days per month for inmates assigned within the confines of the walls of the prison.

(b) thirteen (13) days per month for those inmates placed outside the confines of the walls of the prison;

(c) fifteen (15) days per month for those inmates who have been assigned outside the walls of the prison for an uninterrupted period of one year on a minimum status.

Attempted escape —punishment.

(2) In the event of an attempted escape by an inmate, or a violation of the rules and regulations prescribed by the department or warden, the inmate may be punished by the forfeiture of part or all good time allowances. The warden of the state prison shall advise the department of institutions of any attempted escape or violation of rules and regulations on the part of the inmate. Any punishment by forfeiture of good time allowance must be approved by the department.

HeinOnline -- 1965 649 1965

Application of section.

(3) This section applies to all persons who are on probation or parole or eligible to be placed on probation or parole. No person convicted and sentenced before April 1, 1955, shall have his good time allowance reduced as a result of this section.

Discharge or parole—clothing and allowance.

Section 29. The state prison shall furnish suitable clothing to a discharged or paroled inmate. An inmate discharged and delivered to the custody of the federal government or another state shall receive five dollars ($5.00); all other discharged or paroled inmates shall receive an amount not exceeding twenty-five dollars ($25.00).

Arrangement for adequate confinement.

Section 30. When the state prison is inadequate to contain an inmate sentenced to confinement there, the department of institutions shall enter into contracts with the federal government, other states, or the commissioners of counties that have suitable jails for confining inmates sentenced to the state prison.

Commission to state hospital.

Section 31. The procedures for committing an inmate of the state prison to the state hospital are the same as for any other person.

State Bureau of Criminal Identification and Investigation.

STATE BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION

Supervision of warden.

Section 32. The state bureau of criminal identification and investigation is under the immediate supervision of the warden of the state prison. The warden shall appoint a supervisor of the bureau with the approval of the director of institutions.

Information filed on criminals.

Section 33. The supervisor shall procure and file for record photographs, pictures, descriptions, finger prints, measurements and other pertinent information of all persons who have been convicted of a felony within the state, and of other well-known and habitual criminals. The warden or superintendents of all institutions shall furnish such material to the supervisor of the state bureau of criminal identification on request. The supervisor shall cooperate with and assist sheriffs, chiefs of police and other law officers in the establishment of a complete state system of criminal identification.

Fingerprints.

Section 34. Sheriffs, chiefs of police and all other law enforcement officers shall take the finger prints of

HeinOnline -- 1965 650 1965

a person arrested for a felony on forms furnished by the supervisor and forward them with other information requested by the supervisor to the bureau. The supervisor shall compare the description received with those already on file in the bureau, and if he finds that the person arrested has a criminal record or is a fugitive from justice, he shall at once inform the official having custody of the person arrested. If a person is found innocent of the offense charged, the finger prints and description shall be destroyed.

Report to attorney general of failure to file information.

Section 35. The supervisor shall report to the attorney general the failure of any officer to provide information as required by law. After an investigation of the report, the attorney general may order the proper disbursing officer to withhold payment of the salary of the officer who failed to provide the information, until the information is given to the bureau.

Cooperation with other states and F.B.I.

Section 36. The supervisor shall cooperate with identification bureaus in other states and with the Federal Bureau of Investigation to develop and carry on a complete interstate and international system of criminal identification and investigation.

Establish efficient local bureaus.

Section 37. The supervisor shall assist and, when practicable, instruct sheriffs, chiefs of police and other law officers in establishing efficient local bureaus of identification in their districts, and in making them proficient in procuring and maintaining finger print records.

MONTANA CHILDREN'S CENTER

Montana children's center.

Primary function.

Section 38. The institution located at Twin Bridges is the "Montana Children's Center." The primary function of the center is the support and care of dependent or neglected children as defined in section 10-501, R. C. M. 1947, who require separation from their families or foster families or for whom foster care cannot be obtained.

Superintendent.

Section 39. The children's center is under the immediate management and control of the superintendent.

Committment.

Section 40. Before a child is committed to the center he shall be examined by a licensed physician. A child committed to the center shall be accompanied by the order of commitment, an adequate social history, a medical report and any school records.

HeinOnline -- 1965 651 1965

Discharge.

Section 41. The superintendent, with the consent of the department of institutions, may discharge a child from the center if it is in the best interests of the child.

Incorrigible or dangerous child.

Section 42. Whenever a child residing at the children's center becomes incorrigible, or whenever his conduct endangers the welfare of the other residents of the home or any other person, the superintendent with the consent of the department of institutions shall petition the district court for commitment of the child to the State Vocational School for Girls or the State Industrial School.

Transfer of child to state hospital or state training school.

Section 43. (1) The superintendent of the Montana Children's Center may, with the approval of the department, transfer a child to the State Hospital or State Training School and Hospital. The transfer order must be certified by a licensed physician that he has personally examined the child and is of the opinion that he is mentally ill or mentally retarded, as the case may be.

Notice.

(2) Unless a medical or psychiatric emergency exists, fifteen (15) days prior to the transfer the director of institutions shall send notice of the proposed transfer to the parents or legal guardian of the child and to the district court which committed the child. In the case of an emergency transfer, the director shall send notice within seventy-two (72) hours after the time of transfer.

Education expenses for resident of children's center.

Section 44. The department of institutions may, on the recommendation of the superintendent, authorize a resident of the children's center who has completed high school, and who is otherwise eligible, to receive up to eight hundred dollars ($800.00) per year toward his expenses incurred in attending a unit of the university of Montana. The money may be used for transportation, clothing, books, board and room, and shall be paid in the same manner as other expenses of the center. The university of Montana shall not charge any fees or tuition for such residents. No more than eight residents of the center may receive these benefits each year. A resident receiving these benefits remains subject to the control of the center. The department of institutions shall notify the board of regents no later than August 1 of each year of the residents whom it has designated to receive the benefits for the forthcoming school year.

HeinOnline -- 1965 652 1965

STATE VOCATIONAL SCHOOL FOR GIRLS AND STATE INDUSTRIAL SCHOOL

State Vocational School for Girls and State Industrial School.

Section 45. The State Vocational School for Girls is the institution located in Helena and has as its primary function the care, education, training, treatment and rehabilitation of girls ten (10) years of age or older and under twenty-one (21) years of age who are committed to the school by a court as provided by law. The State Industrial School is the institution located in Miles City and has as its primary function the care, education, training, treatment and rehabilitation of boys ten (10) years of age or older and under twenty-one (21) years of age who are committed to the school by a court as provided by law.

Primary function.

Section 46. The State Vocational School for Girls and the State Industrial School are each under the immediate management and control of a superintendent.

Control and management.

Section 47. The curricula of the State Vocational School for Girls and the State Industrial School shall include such academic and vocational subjects as are taught in the public schools of the state, and shall conform to the standards set by the state board of education.

Curricula.

Section 48. No child shall be committed to the State Vocational School for Girls or the State Industrial School who has attained the age of eighteen (18) years or who does not possess the mental capacity or physical health which will enable him to benefit from the training and educational programs of the school.

Limitations on commitment.

Section 49. Before a child is committed to the State Vocational School for Girls or the State Industrial School he shall be examined by a licensed physician. A child committed to one of the schools shall be accompanied by the order of commitment, a medical examination report, an adequate social history, and any school records.

Commitment.

Section 50. The expense of committing and transporting a child to the State Vocational School for Girls or State Industrial School and the expense of returning him to the county of residence shall be borne by his county of residence. The district judge shall arrange for transportation of the child to the school to which he is committed.

Expense of commitment and transportation.

HeinOnline -- 1965 653 1965

Per diem for children at state industrial school.

Section 51. (1) The county of residence, or if the resident is an Indian, the appropriate federal agency, shall pay seventy-five cents ($.75) per day from the county general or poor fund for each child residing at the State Industrial School.

Statement.

(2) Before the fifteenth day of every month the department of institutions shall send to the county commissioners, or the appropriate federal agency, a statement showing the name of the child, the number of days in the preceding month for which payment is to be made, and the total amount due.

Disposition of funds.

(3) All payments received for children residing in the State Industrial School under this section shall be deposited in the state treasury to the credit of the sinking fund, and shall be pledged to the retirement of bonds or other securities issued for the construction of a physical education building. Construction of a physical education building shall be commenced by July 1, 1965, and when the building has been constructed and paid for all payments for children residing in the State Industrial School shall cease.

Release under supervision or discharge—aftercare program.

Section 52. The department of institutions may place out under supervision, or discharge, a child residing at the State Vocational School for Girls or the State Industrial School whose conduct indicates that he has satisfactorily adjusted and is otherwise a proper person to be discharged. The department of institutions has control over a child placed out under supervision until he attains the age of twenty-one (21) years, and may recall him to the school if he violates the terms of his placement. The department may establish an aftercare program for the supervision and counseling of a child placed out.

Transfer of child.

Section 53. (1) The superintendent of the State Vocational School for Girls or State Industrial School may, with the approval of the department, transfer a child to the state hospital or State Training School and Hospital. The transfer order must be certified by a licensed physician that he has personally examined the child and is of the opinion that he is mentally ill or mentally retarded, as the case may be.

Notice.

(2) Unless a medical or psychiatric emergency exists, fifteen (15) days prior to the transfer the department of

HeinOnline -- 1965 654 1965

institutions shall send notice of the proposed transfer to the parents or legal guardian of the child and to the district court which committed the child. In the case of an emergency transfer, the department shall send notice within seventy-two (72) hours after the time of transfer.

Commutation of sentence of child.

Section 54. (1) Upon the application of a child under the age of eighteen (18) years who has been sentenced to the state prison, or upon the application of his parents or guardians, the governor may, after consulting with the department of institutions and with the approval of the board of pardons, commute the sentence by committing such child to the State Vocational School for Girls or State Industrial School during his minority or until sooner placed or discharged.

Revocation of commutation.

(2) If such child's behavior after being sent to one of such schools indicates that he is not a proper person to reside at one of the schools, the governor after consulting with the department of institutions with the approval of the board of pardons, may revoke the commutation and return him to the state prison to serve out his unexpired term, and the time spent by him at one of the schools, or while a refugee from one of the schools, shall not be considered as a part of his original sentence.

Leaving without permission.

Section 55. A child who has left the State Vocational School for Girls or State Industrial School without permission may be apprehended and returned by any citizen.

Permits or assists child to leave without permission—penalty.

Section 56. A person who permits or assists a resident of the State Vocational School for Girls or the State Industrial School to leave the school without permission, or who furnished or attempts to furnish to such a resident a tool, weapon, or other article with the intent of aiding him to leave without permission, or who harbors or conceals a resident who has left without permission, shall on conviction be punished by imprisonment for a term of not less than six (6) months or more than two (2) years, or by a fine not exceeding one thousand ($1,000) dollars, or by both such fine and imprisonment.

Education expenses for residents of state vocational school for girls or state industrial school.

Section 57. The department of institutions may, on recommendation of the superintendent, authorize a resident of the State Vocational School for Girls or State Industrial School who has completed high school, and who is otherwise eligible, to receive up to eight hundred dollars ($800.00) per year toward his expenses incurred in

HeinOnline -- 1965 655 1965

attending a unit of the university of Montana. The money may be used for transportation, clothing, books, board and room, and shall be paid in the same manner as other expenses of the school. The university of Montana shall not charge any fees or tuition for such residents. No more than eight residents of each school may receive these benefits each year. The department of institutions shall notify the board of regents no later than August 1 of each year of the residents who it has designated to receive the benefits for the forthcoming school year.

State Training School and Hospital.

STATE TRAINING SCHOOL AND HOSPITAL

Primary function.

Section 58. (1) The institution located at Boulder is the "State Training School and Hospital". The primary function of the school is the care, treatment, training and education of mentally retarded persons.

"Mental retardation."

(2) As used in this act "mental retardation" is a state of subnormal development of the human organism which results in the mental incapability of the person affected to adapt himself to the daily demands of his social environment.

Superintendent.

Section 59. The superintendent of the State Training School and Hospital is responsible for the immediate management and control of the school. The school is in the division of mental retardation of the department of institutions.

Eligibility for admittance.

Section 60. To be eligible for admittance to the State Training School and Hospital, a mentally retarded person or his parent or guardian shall have been a resident of the state for at least one year.

Application by parent or guardian —supporting affidavits.

Section 61. If an application for admission of a mentally retarded person to the State Training School and Hospital is made by the guardian or parent it shall be filed with the department of institutions, in a form prescribed by the department and available at the county department of public welfare office. The application shall be supported by the affidavit of two physicians or one psychologist acceptable to the department of institutions and one physician certifying that the person whose admission is sought is mentally retarded. The county department of public welfare, where the retarded person resides, shall prepare a social summary on the retarded

HeinOnline -- 1965 656 1965

person for the use of the State Training School and Hospital.

Application by other than parent or guardian—hearing.

Section 62. If the application for admission is made by someone other than the parent or legal guardian of a mentally retarded person, it shall be filed with the clerk of the district court. The application shall be in a form prescribed by the state department of institutions. The judge shall set the time and place for hearing the application, and the clerk shall notify the parents or guardians, and other interested persons. The court shall name two physicians or one psychologist acceptable to the department of institutions and one physician, to examine the person whose admission is sought. The county department of public welfare shall prepare a social summary of the person for the use of the court. If the court concludes from the examination and other information obtained at the hearing that the person whose admission is sought is a proper person for admission to the State Training School and Hospital, the court shall issue an order approving the application.

Determination of room at training school—transportation expense.

Section 63. A person may not be taken to the State Training School and Hospital until the department of institutions has ascertained whether or not there is room at the school to accommodate the person. If there is not room, the application shall be filed with the department, which shall grant admission when room becomes available. When there is room the person shall be sent to the school with a copy of the court order, if any, the application, and the social summary prepared by the county department of public welfare. The costs of transportation to the school shall be paid by the county where the person resides.

Temporary commitment.

Section 64. In order to utilize facilities more efficiently during the temporary or seasonal decreases in population, and in order to extend the benefits of training and treatment programs offered by the State Training School and Hospital to mentally retarded persons whose extended commitment is not sought, the department of institutions may admit a mentally retarded person to the school for a period not exceeding sixty (60) days on the application of the person's parent or guardian.

HeinOnline -- 1965 657 1965

Transfer of patient.

Notice.

Section 65. With the approval of the department of public institutions, a patient of the State Training School and Hospital may be transferred to the state hospital of the State Pulmonary Disease Hospital. Unless a medical or psychiatric emergency exists, fifteen (15) days prior to the transfer the department shall send notice of the proposed transfer to the parents or legal guardian of the person, and to the district court, if any, which committed the person. In the case of an emergency transfer, the department shall send notice within seventy-two (72) hours after the time of transfer.

Discharge.

Section 66. (1) With the approval of the department of institutions, the superintendent may discharge a person admitted to the State Training School and Hospital.

Request for discharge—hearing.

(2) A person admitted to the school who requests his discharge or whose discharge is requested in writing by his parent or guardian shall be discharged within twenty (20) days after receipt of the request unless the department of institutions files a petition with the district court certifying that the person whose discharge is sought is not a proper person to be discharged. The judge shall set the time and place for hearing, and after examining all relevant information presented at the hearing shall either approve the petition of the department or order the person discharged.

Division of Mental Hygiene—State Hospital.

DIVISION OF MENTAL HYGIENE—STATE HOSPITAL

Function.

Section 67. The institution located at Warm Springs is the "State Hospital". The only function of the state hospital is the care and treatment of mentally ill persons and alcoholics. The state hospital is in the division of mental hygiene of the department of institutions.

Superintendent—qualifications.

Section 68. The superintendent of the state hospital is the supervisor of the division of mental hygiene. The superintendent shall be a licensed physician who has fulfilled the residency requirements of the American Board of Psychiatry and Neurology in the speciality of psychiatry.

Duties and powers.

Section 69. The division of mental hygiene of the department of institutions shall:

HeinOnline -- 1965 658 1965

(1) Take cognizance of matters affecting the mental health of the citizens of the state.

(2) Initiate preventive mental hygiene activities of the state's mental health program.

(3) Make scientific and medical investigations relative to the incidence, cause, prevention and care of mental illness.

(4) Collect and disseminate information relating to mental hygiene.

(5) Prepare plans for the development of mental health services in the state.

(6) Examine persons received into the state hospital and other persons who apply for examination, for the purpose of diagnosing and prescribing treatment of mental illness.

(7) Establish and conduct clinics in cities and towns of the state for the diagnosis and treatment of mental illness.

(8) Receive from agencies of the United States and other agencies grants of money for the development of mental hygiene services within the state, and use such moneys in its operation.

Alcoholism service.

Section 70. (1) There is an alcoholism services center at the state hospital. The admittance and discharge procedures for alcoholics are the same as for mentally ill persons.

(2) As used in this section:

"Alcoholism."

(a) "Alcoholism" means a chronic illness or disorder of behavior characterized by repeated drinking of alcoholic beverages to an extent which endangers the drinker's health, interpersonal relations or economic functioning, or to an extent which endangers the public health, welfare or safety.

"Alcoholic."

(b) An "alcoholic" is a person suffering from the illness of alcoholism.

Duties and powers.

(3) The alcoholism services center shall:

(a) Provide custody, care, diagnosis, treatment and rehabilitation to persons in Montana who seek, or are

HeinOnline -- 1965 659 1965

required to seek, relief from the illness of alcoholism or the complications thereof;

(b) Consult with, inform, guide and cooperate with Montana communities and citizens' committees who seek assistance in establishing local alcoholism treatment, rehabilitation and public information services;

(c) Accumulate and disseminate scientific information on alcoholism to all agencies, groups and individuals, public or private, who require or seek such services;

(d) Initiate, encourage and coordinate practical research on alcoholism in Montana aimed at improving treatment, rehabilitation and prevention techniques or services; and

(e) Enter into cooperative agreement with other state agencies to further the work of the center.

Montana Center for the Aged.

MONTANA CENTER FOR THE AGED

Primary function.

Section 71. The institution located at Lewistown is the "Montana Center for the Aged". The primary function of the center is the care and treatment of senile persons who have been admitted to the state hospital and subsequently transferred to the center. As used in this act "senility" means mental illness resulting from the aging process.

"Senility."

Transfer of patient —notice.

Section 72. With the approval of the department of institutions, state hospital may transfer a patient to the center or from the center to the state hospital. With the approval of the department of institutions, the state hospital may transfer a patient residing at the center to the State Pulmonary Disease Hospital. Unless a medical or psychiatric emergency exists, fifteen (15) days prior to the transfer the department of institutions shall notify the patient's parent, guardian or spouse, or if none is known, his nearest relative or friend. In the case of an emergency transfer, the department shall send notice within seventy-two (72) hours after the time of transfer.

Discharge or release upon request.

Section 73. Upon the request of the superintendent of the center the superintendent of the state hospital may authorize the discharge or release on convalescent status of a patient residing at the center under the same restrictions provided by law for the discharge and release on convalescent status of patients of the state hospital.

HeinOnline -- 1965 660 1965

Section 74. Section 82-1914, R. C. M. 1947, is amended to read as follows: Amending clause.

"82-1914. **Sale of state property.** The state *controller* shall have exclusive power, subject to the consent and approval of the governor, to sell, or otherwise dispose of, or to authorize the sale or other disposition of, all materials and supplies, service, equipment, or other personal property of every kind now owned by the state of Montana, but not needed or used by any state institution or by any department of the state government. Sale of state property.

Section 75. Section 69-317, R. C. M. 1947, is amended to read as follows: Amending clause.

"69-317. **Expenses of removal to facility—charge for maintenance, care and treatment.** The expenses of removal of any person to a facility shall be borne by the county from which such person was committed. These expenses shall be paid from the general fund appropriations of the county or from the funds derived from such as may be designated. The charge for the care, treatment, and maintenance of the person at *State Pulmonary Disease Hospital* shall be at the rate determined paid for according to existing law." Expenses of removal to facility—charge for maintenance, care and treatment.

Section 76. Section 69-318, R. C. M. 1947, is amended to read as follows: Amending clause.

"69-318. **Quarters and facilities.** The state *department of institutions* shall provide and maintain at the state facility, *State Pulmonary Disease Hospital,* quarters as may be necessary to carry out the provisions of this act. The counties shall provide and maintain facilities as may be necessary to carry out the provisions of *Chapter 3, Title 69, R. C. M. 1947.*" Quarters and facilities.

Section 77. Section 94-35-264, R. C. M. 1947, is amended to read as follows: Amending clause.

"94-35-264. **Furnishing certain articles to** *and receiving articles from* **prisoners in state prison—receiving such articles by prisoners—felony.** *(1) A* person *may not* furnish or attempt to furnish *to an inmate of the state prison, nor may an inmate receive or attempt to receive any of the following items without the consent of the warden:* Furnishing articles to or receiving articles from prisoner—violation. Restricted items.

(a) Any liquid containing one-half of one percent (½ of 1%) or more of alcohol by volume which is fit for use for a beverage.

HeinOnline -- 1965 661 1965

(b) Knives, razors, drugs, narcotics, guns, ammunition, ropes, ladders, money or clothing other than that issued at the prison.

Money, merchandise or message.

(2) A person, including a member of the correctional staff, may not receive or attempt to receive from an inmate, for his own use or for transmittal to another inmate or some one outside the prison, any money, merchandise, or messages.

Penalty.

(3) A person who violates this section is punishable upon conviction, by imprisonment in the state prison for a term not exceeding ten (10) years, or a fine not exceeding ten thousand dollars ($10,000), or both."

Amending clause.

Section 78. Section 10-506, R. C. M. 1947, is amended to read as follows:

County board to investigate and report—when.

"10-506. **Duty of county board to investigate and report, when.** Whenever any petition is filed with the clerk of a district court in accordance with the provisions of section 10-503, and after citation has been issued as provided in section 10-504, the clerk of such court must immediately deliver to the county board of public welfare of the county in which the petition is filed, a copy of such petition with a notation thereon giving the day and time fixed by the court for hearing such petition. Upon receipt of such copy of petition it shall be the duty of some member of the staff of such county board of public welfare to make an investigation for the purpose of ascertaining whether the parents or parent, if any, of such child live within such county and the financial ability of such parents or parent, if any, to pay the cost of taking care of such child in a foster home, and must file with the clerk of such court, before the time fixed for such hearing, a written report of such investigation."

Amending clause.

Section 79. Section 10-507, R. C. M. 1947, is amended to read as follows:

Hearing of petition—evidence of financial ability of parents—court order—allocation of cost.

"10-507. **Hearing of petition — evidence regarding financial ability of parents — court order — allocation of of cost.** On the hearing the court may hear evidence regarding the financial ability of any such parents or parent, to pay such cost, and may take into consideration the report of such investigation filed with the clerk of the court, as provided in section 10-506. And if, on such hearing, the court shall find and determine that said child

HeinOnline -- 1965 662 1965

has parents, or a parent, who is financially able to pay a part or the whole of such cost, and such child shall be ordered placed in a foster home, the court shall make an order requiring such parents, or parent, to pay therefor such amount as the court may deem proper.

If such child be placed in a foster home the state department of public welfare shall pay one-half (½) of the cost thereof, and the county in which such child resides shall pay the other one-half (½) thereof, and in turn shall collect in its own name from any parent or parents such amount, if any, as the court has specified in its order to be paid by such parent or parents, provided that one-half (½) of any amount collected by the county from a parent or parents, when a child is placed in a foster home, shall be transmitted to the state department of public welfare, and by it paid over to the state treasurer, who shall deposit the same to the credit of the state general fund."

Amending clause.

Section 80. Section 10-504, R. C. M. 1947, is amended to read as follows:

Citation and procedure.

"10-504. **Citation and procedure.** Upon the filing of such petition, if it shall appear that one or both of said parents, or guardian, if there be no parent, reside in said county, the judge of said court shall issue a citation fixing the day and time of hearing of such petition, which shall be served upon one or both of said parents or guardian, if any, if either can be found in said county, not less than two (2) days before the time fixed for said hearing, requiring them to appear on said day and hour and show cause, if any, why said child should not be declared, by said court, to be a dependent or neglected child, and sent to the *Montana children's center,* or otherwise cared for. In case it shall appear by said petition that neither of said parents is living, or does not reside in said county, or in case one or both of said parents, or guardian, in case there be no parents, shall indorse on said petition a request that the child be declared to be a dependent child, then the citation herein provided for need not be issued, and the court may thereupon proceed to the examination and hearing provided for; provided, however, that in all cases, except where the proceeding is instituted or commenced by a representative of the division of child welfare service of the state departmnt of public welfare, a citation must be issued and served upon a representative

HeinOnline -- 1965 663 1965

of the division of the child welfare service of the department of public welfare of the state of Montana, either personally or by mail. It shall be the duty of the officer receiving such citation to use diligence to find and serve the same on one or both of said parents, or upon the guardian, who shall represent such child in court; and in case there is neither of these found, then the court shall appoint an officer of the division of child welfare service, or some responsible taxpayer of said county, to represent said child in court, and the court may also appoint an attorney to represent said child. In case one or both of said parents of such child appear in court, it shall be the duty of the district judge to explain to the one so appearing the effect of an order of court, sending their child to the state home, or declaring it to be a defendent child. In case any dependent child is taken away from its parents or guardian under the provisions of this act, such parents or guardian shall thereafter have no right over or to the custody, service, or earnings of said child, except upon condition, in the interest of such child, as the court may impose or where, upon proper proceedings, such child may lawfully be restored to the parents or guardian."

Service of citation.

Amending clause.

Section 81. Section 10-509, R. C. M. 1947, is amended to read as follows:

Commitment of child to children's center or other institution.

"10-509. **Commitment of child to** *children's center* **or other disposition.** Upon the hearing of any such case, if the said child shall be found to come within any of the provisions of section 10-501, it shall be deemed a dependent *or neglected child,* and an order may be entered committing it to the *Montana children's center*; and if said *center* is unable to receive said child, or if, from any other reason, it shall appear to be to the best interest of said child, the court may make such disposition of said child as seems best for its *social* and physical welfare. *The form of commitment shall be as follows:*

Commitment order—form.

ORDER OF COMMITMENT

State of Montana, County of....., ss:
In the District Court for the.....judicial district.
On the.....day of....., 19....., ...
a minor of this county was charged on the petition of ....., the County Attorney of.....
county, with being a dependent and neglected child under

HeinOnline -- 1965 664 1965

the provisions of Chapter 5, Title 10, R. C. M. 1947. Upon due proof I find that it is for the best interests of the child that he be taken from the custody of his parents, guardian, or other person having custody of him.

The names, addresses and occupations of the parents are:

Name	*Address*	*Occupation*
.....	.....	.....
.....	.....	.....

The child's guardian is.....

The child is in the custody of.....

It is ordered that.....*be committed to*.....

.....

.....*until discharged as provided by law.*

Witness my hand this.....*day of*.....*A. D. 19*.....

.....

Judge"

Section 82. Section 10-512, R. C. M. 1947, is amended to read as follows: Amending clause.

"10-512. **Suspension of sentence.** The court may suspend any sentence hereunder, or release any person sentenced under this act from custody, upon condition that such person shall furnish a good and sufficient bond or undertaking to the state of Montana, in such penal sum, not exceeding two thousand dollars, as the court shall determine, conditioned for the payment of *(1)* such amount as the court may order, not exceeding twenty-five dollars per month for each child, for the support, care, and maintenance of such child while under the guardianship or in the custody of any individual or any public, private, or state home, institution, association, or orphanage, *other than an institution in the department of institutions,* to which the child may have been committed or entrusted under the provisions of the law of the state concerning dependent and neglected children, *or (2) the per diem charge established by the department of institutions for each child committed to the Montana children's Center."* Suspension of sentence—bond. Amount as the court may order. Per diem charge established by board.

Section 83. Section 10-612, R. C. M. 1947, is amended to read as follows: Amending clause.

"10-612. Whenever under the provisions of this act the court *orders a* delinquent child committed to the *State Vocational School for Girls, State Industrial School or other* Commitment order—form.

HeinOnline -- 1965 665 1965

state department of institutions juvenile facility, the form of commitment shall be *as follows:*

ORDER OF COMMITMENT

State of Montana, County of....., ss:
In the district Court for the.....judicial district.
On the.....day of....., 19....., ...,
a minor of this county, ...years of age, was brought before me charged with..... Upon due proof I find that.....is a suitable person to be committed to.....
It is ordered that.....be committed to .....until.....attains the age of 21 or is sooner legally discharged or placed out.

The names, addresses and occupations of the parents are:

Name	*Address*	*Occupation*
.....	.....	.....
.....	.....	.....

The names and addresses of other near relatives are:

.....
.....

Witness my hand this.....day of.....A. D. 19.....

.....
Judge"

Amending clause.

Section 84. Section 10-632, R. C. M. 1947, is amended to read as follows:

Saving clause.

"10-632. Nothing in this act shall be construed to repeal any portion of the acts relating to the *State Vocational School for Girls or State Industrial School,* or the act or acts relating to the *state department of public welfare* or the public welfare act."

Amending clause.

Section 85. Section 16-2723, R. C. M. 1947, is amended to read as follows:

Mileage and expense of sheriff delivering prisoners or mentally ill.

"16-2723. **Mileage and expense of sheriff.** Sheriffs delivering prisoners at the state prison or *mentally ill* persons at the *state hospital,* shall receive actual expenses necessarily incurred in their transportation, which shall include the expenses of the sheriff in going and returning from such institution. They shall take vouchers for every item of expenses incurred by them in such transportation, the amount of which expenses, as shown by the said

HeinOnline -- 1965 666 1965

vouchers when served by said sheriff, shall be audited and allowed by the state *controller* or by the board of county commissioners, as the case may be, and paid out of the same money and in the same manner as are other expense claims against the state or counties, and no other or further compensation shall be received by sheriffs for such expenses, provided that in determining the actual expense, if travel be by a privately owned vehicle, the mileage rate shall be allowed as herein provided. While in the discharge of his duties, both civil and criminal, the sheriff shall receive eleven cents (11¢) per mile for each and every mile actually and necessarily traveled; and for transporting any person by order of court, except as hereinbefore provided, he shall receive eleven cents (11¢) additional per mile, the same to be in full for transporting and dieting of such person during such transportation; provided that where more than one person is transported by the sheriff or when one or more papers are served on the same trip made for the transportation of one or more prisoners, but one mileage shall be charged. The county shall not be liable for, nor shall the board of county commissioners pay for any claim of the sheriff or other officer, for any other expense incurred in travel or for subsistence, in cases where mileage is allowed under this section; the fees for mileage named in this section being in full for all such traveling expenses in both civil and criminal work."

Privately owned vehicle.

Mileage in full for transporting and dieting during transportation.

More than one person transported.

Section 86. Section 16-3410, R. C. M. 1947, is amended to read as follows:

Amending clause.

"16-3410. **Payment of costs of inquest.** Whenever *such* an inquest is held the county clerk of the county where such inquest is had shall make out a statement of all the costs incurred by the county in such inquest, properly certified by the coroner of said county, which statement shall be sent to the *department of institutions* for approval; and after such approval, *the department* must cause the amount of such costs to be paid out of the money appropriated for the support of the state prison to the county treasurer of the county where such inquest was had."

Payment of costs of inquest.

Section 87. Section 69-2308, R. C. M. 1947, is amended to read as follows:

Amending clause.

"69-2308. **Limitation on right to perform autopsy or dissection.** The right to perform an autopsy upon, or to

Right to perform autopsy or dissection limited.

HeinOnline -- 1965 667 1965

dissect the dead body of a human being, or make any post-mortem examination involving dissection of any part of such body, shall be limited to the following cases, viz.: (a) To cases where such autopsy or dissection is specifically authorized by a statute or code provision of this state, (b) or to cases where a coroner is authorized to hold an inquest upon a dead body, as provided by section 94-201-1, and any code section continuing authority for such inquest and then only to the extent such coroner may authorize dissection or autopsy, (c) cases where dissection, autopsy or post-mortem examination is directed or authorized by the last will and testament, or codicil thereto or other written statement of the deceased, whether such statement be of testamentary character or otherwise, (d) cases where the husband, wife or next of kin charged by law with the duty of burial, shall, in writing, authorize dissection, autopsy or other post-mortem examination of the dead body for the purpose of ascertaining the cause of the death, and then only to the extent so authorized; and (e) cases where the decedent died in *a hospital operated by the United States Veterans Administration, the Montana school for the deaf and blind, or an institution in the department of institutions,* leaving no surviving husband, wife or next of kin charged by law with the duty of burial, and when the manager or superintendent of the institution where such body was at the time of death first obtains an order of the district court in, and for the county where such institution is located, authorizing dissection, autopsy or other post-mortem examination, for the purpose of ascertaining the cause of death, and then only to the extent so authorized by such order of the district court.

Authorized by statute.

Inquest.

Will.

Authorization by next of kin.

Institutions.

Resident leaving no husband, wife or next of kin.

In all other cases where the decedent died in the state of Montana and while a resident of the state of Montana at the time of death, leaving no surviving husband, wife, or next of kind charged by law with the duty of burial, the attending physician at the time of decedent's death first obtains an order of the district court in, and for the county in which such death occurred, authorizing dissection, autopsy or other post-mortem examination for the purpose of ascertaining the cause of death, and then only to the extent so authorized by the order of the district court, after it has been shown to the satisfaction of the court that applicant for the order has made due and dili-

HeinOnline -- 1965 668 1965

gent search for the next of kin charged by law with the duty of burial, and after such due and diligent search was unable to find said next of kin."

Section 88. Section 75-3002, R. C. M. 1947, is amended to read as follows: Amending clause.

"75-3002. **Commitment to** *State Vocational School for Girls or State Industrial School.* If the parent, guardian, or other person in charge of any child, shall, upon the complaint under the last section for a failure to cause the child to attend a recognized school, prove inability to do so, then he or she shall be discharged and thereupon the truant officer shall make complaint that the child is a juvenile disorderly person within the meaning of the preceding section. If such complaint is made before any mayor, justice of the peace or police judge, it shall be certified by such magistrate to the district court in and for the county in which the child resides or to a judge of said district court. The district court or the judge thereof to whom the same is certified shall hear such complaint, and if it be determined that the child is a juvenile disorderly person within the meaning of the preceding section the said child shall be committed by the said court, or the judge thereof to whom the complaint was certified, to the *State Vocational School for Girls, State Industrial School, or other department of institutions juvenile facility.* If for any cause the parent, guardian, or other person in charge of any juvenile disorderly person as defined in the preceding section shall fail to cause such juvenile disorderly person to attend school, the complaint against such juvenile disorderly person shall be made, heard, and determined in like manner as provided in case the parent proves inability to cause such juvenile disorderly person to attend school." Commitment to State Vocational School for Girls or State Industrial School—juvenile disorderly person.

Section 89. Subsection 11 of Section 82-401, R. C. M. 1947, is amended to read as follows: Amending clause.

"82-401. **General duties.** It is the duty of the attorney general: General duties of attorney general —state boards.

11. To discharge the duties of a member of the board of examiners, state board of land commissioners, state board of education, board of state prison commissioners, and other duties prescribed by law."

Section 90. Section 82-602, R. C. M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1965 669 1965

Consolidation of clerkships.

"82-602. **Consolidation of clerkships.** The clerk of the state board of examiners, in addition to his duties as clerk of said board, shall perform all of the duties of clerk on the board of state prison commissioners."

Amending clause.

Section 91. Section 82-1014, R. C. M. 1947, is amended to read as follows:

Examination of accounts and books of state institutions —state examiner.

"82-1014. **Examination of accounts and books of state institutions.** The state examiner is hereby directed to examine and audit each fiscal year the accounts and books of *all institutions in the department of institutions,* state school for the deaf and blind and the various units of the university of Montana, and has authority to employ such clerical, accounting and other personnel as may be deemed necessary by him to carry out the provisions of this act.

Examination to include.

Such examination shall include, within reason, but not limited to, the verification of all fees collected and their disposition, a statement of all income including federal and private grants, the tabulation of expenditures made from each of the appropriations granted by the legislative assembly, the consideration of all claims and expenditures as to their fund allocation and validity, the analysis of the sources of funds applied to the redemption of revenue bonds outstanding, the segregation of expenses allocated to buildings and activities designated as self-liquidating, and any investigation as may be requested by the governing boards of the institutions.

Annual examination and audit of office of state controller.

The state examiner shall also conduct an annual examination and audit of the office of state controller, ex officio state purchasing agent. Such examination shall include the verification of all fees collected and their disposition, and shall also include an examination and appraisal of the procedures followed by the purchasing division for the purchase of supplies and capital equipment for state agencies."

Amending clause.

Section 92. Section 82-1131.1, R. C. M. 1947, is amended to read as follows:

Saving clause.

"82-1131.1. **Repeal clause.** The provisions of this act (82-1131, 82-1131.1) shall not repeal to any extent the provisions of section 80-731, Revised Codes of Montana, 1947, and, further, this act shall not apply to work done by inmates at *an institution in the department of institutions.*"

Amending clause.

Section 93. Subsection 3 of Section 82-1202, R. C. M. 1947, is amended to read as follows:

HeinOnline -- 1965 670 1965

"82-1202. **Powers of the state fire marshal.** In addition to the powers heretofore granted, the state fire marshal shall have powers as per sections following: Powers of state fire marshal.

3. That the state fire marshal shall make at least one inspection during every year, of each state institution, and submit a copy of the report to the *state department of institutions* with recommendations in regard to fire prevention, fire protection and to the public safety." Inspection.

Section 94. Subsection 14 of Section 82-1301, R. C. M. 1947, is amended to read as follows: Amending clause.

"82-1301. **Powers and duties of governor.** In addition to those prescribed by the constitution, the governor has the power and must perform the duties prescribed in this and the following sections: Powers and duties of governor.

14. He must discharge the duties of member of the board of examiners, of member of the state board of education, of member of the state board of land commissioners, *and* of member of the board of state prison commissioners." State boards.

Section 95. Subsection 14 of Section 82-2202, R. C. M. 1947, is amended to read as follows: Amending clause.

"82-2202. **Duties of secretary of state.** In addition to the duties prescribed by the constitution, it is the duty of the secretary of state: Duties of secretary of state.

14. To discharge the duties of member of the state board of examiners, of member of the state board of prison commissioners, of member of the state board of land commissioners and all other duties required of him by law." State boards.

Section 96. Section 91-105, R. C. M. 1947, is amended to read as follows: Amending clause.

"91-105. **State institutions which may take by gift, bequest or grant.** The state of Montana, *units of* the university of Montana, the state school for the deaf and blind, *all institutions in the department of institutions,* and any and all institutions now created or established, or which may hereafter be created or established, and supported in whole or in part by the state of Montana for any purpose, are hereby empowered and given the right to accept, receive, take, hold, own, and possess gifts, donations, grants, State institutions to take by gift, bequest or grant.

HeinOnline -- 1965 671 1965

devises, or bequests of real or personal property from any source whatsoever; and said gifts, donations, grants, bequests, or devises may be made direct to the state of Montana, or in the name of any of said institutions, or to any officer or board of said institutions, or to any person in trust for said institutions; but in the event the same shall be made direct to any such institution, or to any officer or board of any such institution, such gift, donation, grant, devise, or bequest shall be construed as a gift, donation, grant, devise, or bequest to the state of Montana, and shall be administered and used by the state of Montana for the particular purpose for which the same was given, donated, granted, bequeathed, or devised; and in the event no particular purpose is mentioned in such gift, grant, devise, or bequest, then the same shall be used for the general support, maintenance or improvement of such institution by the state of Montana."

Amending clause.

Section 97. Section 91-106, R. C. M. 1947, is amended to read as follows:

Persons who may make gifts to state institutions.

"91-106. **Persons who may make gifts to state institution.** A donation, gift, grant, bequest, devise, or testamentary disposition of property, real or personal, may be made by any person over the age of eighteen years, of sound mind, to the state of Montana, *a unit of* the university of Montana, the state school for deaf and blind, *an institution in the department of institutions,* and any and all institutions now created or established, or which may hereafter be created or established and supported, in whole or in part, by the state of Montana for any purpose. And any person, corporation, or association of persons may make any gift, donation, or grant of property, real or personal, to the state of Montana, or to any of the institutions above-named or referred to; but in the event any gift, donation, grant, devise, or bequest shall be made to any such institution, or to any officer or board of any such institution, the same shall be construed as a gift, donation, grant, devise, or bequest to the state of Montana, and shall be administered and used for the state of Montana for the particular purpose for which the same was given, donated, granted, bequeathed, or devised; and in the event no particular purpose is mentioned in such gift, grant, devise, or bequest, then the same shall be used for the general support, maintenance, or improvement of such institution by the state of Montana."

HeinOnline -- 1965 672 1965

Section 98. Section 94-8020, R. C. M. 1947, is amended to read as follows: Amending clause.

"94-8020. **Commitment or transfer of inmate to institution outside of state.** Any court or *state agency* having power to commit or transfer an inmate (as defined in article II (d) of the western interstate corrections compact) to any institution for confinement may commit or transfer such inmate to any institution outside this state if this state has entered into a contract or contracts for the confinement of inmates in said institution pursuant to article III of the western interstate corrections compact." Commitment or transfer of inmate to institution outside state.

Section 99. Section 94-8022, R. C. M. 1947, is amended to read as follows: Amending clause.

"94-8022. **Hearings requested by other states—power of board of pardons and paroles and** *state department of institutions* **to hold.** The board of pardons and paroles and the *state department of institutions* are hereby authorized and directed to hold such hearings as may be requested by any other party state pursuant to article IV (f) of the western interstate corrections compact." Hearings requested by other states—power to hold.

Section 100. Section 94-8023, R. C. M. 1947, is amended to read as follows: Amending clause.

"94-8023. **Governor—power to enter into contracts.** The governor is hereby empowered to enter into such contracts *recommended by the department of institutions* on behalf of this state as may be appropriate to implement the participation of this state in the western interstate corrections compact pursuant to article III thereof." Governor—power to enter into contracts.

Section 101. Sections 10-101, 10-101.1, 10-102, 10-105, 10-110, 10-111, 10-112, 10-113, 10-114, 10-118, 10-119, 10-120, 10-121, 38-101, 38-102, 38-104, 38-712, 38-713, 38-714, 38-715, 38-716, 38-717, 38-718, 38-719, 38-720, 38-721, 38-722, 38-723, 38-724, 38-802, 38-804, 38-805, 38-806, 38-807, 38-810, 38-811 38-813, 38-814, 38-815, 38-816, 38-819, 38-1001, 38-1002, 38-1003, 38-1101, 38-1106, 38-1108, 38-1109, 38-1110, 38-1111, 38-1112, 72-144, 80-201, 80-206, 80-207, 80-209, 80-210.1, 80-215, 80-302, 80-303, 80-308, 80-310, 80-311, 80-313, 80-316, 80-320, 80-601, 80-602, 80-603, 80-604, 80-605, 80-606, 80-607, 80-608, 80-701, 80-702, 80-703, 80-704, 80-705, 80-707, 80-707.1, 80-707.2, 80-707.3, 80-707.4, 80-707.5, 80-708, 80-709, 80-710, 80-711, 80-712, 80-713, 80-714, 80-715, 80-719, 80-720, 80-731, 80-732, 80-733, 80-738, Repealing clause.

HeinOnline -- 1965 673 1965

80-740, 80-740.1, 80-742, 80-743, 80-745, 80-746, 80-748, 80-806, 80-807, 80-809, 80-811, 80-815, 80-816, 80-817, 80-818, 80-819, 80-820, 80-821, 80-822, 80-823, 80-824, 80-902, 80-903, 80-911, 80-915, 80-918, 80-919, 80-920, 80-921, 80-922, 80-923, 80-924, 80-925, 80-926, 80-927, 80-928, 80-929, 80-1001, 80-1002, 80-1003, 80-1004, 80-1005, 80-1006, 80-1101, 80-1201, 80-1202, 80-1203, 80-1204, 80-1205, 80-1206, 80-1207, 80-1208, 80-1209, 80-1210, 80-1211, 80-1212, 80-1301, 80-1302, 80-1303, 80-1304, 80-1305, 80-1306, 82-1103, 82-2801, 82-2802, 82-2803, 94-35-152, 94-35-152.1, 94-35-152.2, 94-35-152.3, 94-35-152.4, 94-35-152.5, 94-35-152.6, 94-35-152.7, 94-35-152.8, 94-35-152.9, 94-35-152.10, 94-35-152.11, 94-35-152.12, 94-35-152.13, 94-35-152.14, 94-35-152.15, 94-35-152.16, 94-35-152.17, 94-35-152.18, R. C. M. 1947, are repealed.

Council for welfare, health and institutions and council on prison made goods abolished.

Section 102. The council for welfare, health and institutions, and the advisory council on prison-made goods are abolished. All records and property of these agencies are transferred to the state department of institutions.

Severability clause.

Section 103. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 6, 1965.

CHAPTER 200

An Act Amending Section 81-803, R. C. M. 1947, to Provide For an Exemption From Filing Plats When Applying For Easements on State Lands For Pipelines and to Provide For Consent of a Purchaser Under a Sales Contract.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 81-803, R. C. M. 1947, is hereby amended to read as follows:

Easements on state land—application for.

"81-803. **Easements on state land—application for—action on.** (1) Application for easement on state land must be made to the state board of land commissioners

HeinOnline -- 1965 674 1965

and shall describe the proposed right of way according to survey, show the necessity for the proposed highway or street or other easement and give such additional information as the board may require. This application shall be accompanied by two exact copies of the official plat of the proposed highway, street or other easement duly verified by the affidavit of the county surveyor or county or city engineer, or other engineer having prepared the same, endorsed thereon. These plats shall show the quantity of land taken by the proposed highway or street or other easement for each forty-acre tract or government lot of state land over or through which it passes and also the amount of land remaining in each portion of such forty-acre tract or government lot. When deemed necessary by the board, the aforesaid plats shall show all these facts for such smaller subdivisions as the circumstances may render desirable for the state. Provided, however, that when the purpose of the right of way applied for is the transmission or distribution of electric energy, or the construction and operation of *pipelines or* telephone, telegraph or radio systems, the aforementioned plats and measurements need not be given, except the description of the location of the center line of the right of way and the entire right of way may be applied for in one application with only one plat of the entire right of way required. Provided further that easements granted under the provisions of this act shall be considered as including permission to install and maintain poles, anchors and other appurtenances necessary for the mechanical support of the transmission or distribution lines.

Transmission or distribution of electric energy, construction and operation of pipelines or telephone, telegraph or radio systems.

(2) Upon the filing of such application and plats, the commissioner of state lands and investments shall whenever he deems it necessary cause the proposed right of way to be viewed and examined by the chief field agent or some assistant field agent who shall report his findings to the board. The board shall thereupon consider the application and report and take such action as it deems proper, including the fixing of compensation and damages to be paid to the state. The compensation so fixed shall be the full market value of the estate or interest disposed of through the granting of such right of way easement, and the damages shall be the actual damages resulting to the remaining land as nearly as the

Action on.

Compensation.

HeinOnline -- 1965 675 1965

same can be ascertained. If the right of way is granted according to the plat, then such plat shall become the official plat thereof, and shall be retained in the office of the commissioner. The board shall cause right of way deeds to be issued for all such easements that it may hereafter grant upon full payment therefor being made.

Land under certificate of purchase or sales contract.

(3) If the state land over or through which such right of way is applied for, is under certificate of purchase or under sales contract, the purchaser, or his assignee, must be made a party to the proceedings, and his consent in writing to the laying out and establishment of the proposed highway, *street or other easement* and to the amount of compensation and damages to be paid must be filed with the board before such right of way shall be granted. The board shall be the judge of how much of such compensation and damages shall be paid to the state and applied on the certificate of purchase or sales contract and of how much thereof, if any, shall be paid to the purchaser, as the circumstances in each individual case may warrant. The provisions of this paragraph shall apply to all grants of rights of way on state lands."

Approved March 6, 1965.

CHAPTER 201

An Act to Provide For Civil Rights; Defining Terms; and Providing For a Penalty For Violations.

Be it enacted by the Legislative Assembly of the State of Montana:

Right to be free from discrimination because of race, creed color or national origin.

Section 1. The right to be free from discrimination because of race, creed, color or national origin is recognized as and declared to be a civil right. This right shall include, but not be limited to:

Civil right to include employment.

(1) The right to obtain and hold employment without discrimination.

Accommodations.

(2) The right to the full enjoyment of any of the accommodation facilities or privileges of any place of public resort, accommodation, assemblage or amusement.

Definitions.

Section 2. Terms used in this act shall have the following definitions:

HeinOnline -- 1965 676 1965

"Every person."

(a) "Every person" shall be construed to include any owner, lessee, proprietor, manager, agent or employee whether one or more natural persons, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees, receivers, of this state and its political subdivisions, boards and commissions, engaged in or exercising control over the operation of any place of public resort, accommodation, assemblage or amusement.

"Deny."

(b) "Deny" is hereby defined to include any act which directly or indirectly, or by subterfuge, by a person or his agent or employee, results or is intended or calculated to result in whole or in part in any discrimination, distinction, restriction or unequal treatment or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying or lodging in any place of public resort, accommodation, assemblage or amusement except for conditions and limitations established by law and applicable alike to all persons, regardless of race, creed or color.

"Full enjoyment of."

(c) "Full enjoyment of" shall be construed to include the right to purchase any service, commodity or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage or amusement, without acts directly or indirectly causing persons of any particular race, creed or color, to be treated as not welcome, accepted, desired or solicited.

"National origin" includes "ancestry."

(d) "National origin" includes "ancestry."

"Any place of public resort, accommodation, assemblage, or amusement."

(e) "Any place of public resort, accommodation, assemblage or amusement" is hereby defined to include, but not to be limited to, any public place, licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission, service, occupancy or use of any property or facilities, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, or for the sale of goods and merchandise, or for the rendering of personal service, or for

HeinOnline -- 1965 677 1965

public conveyance or transportation on land, water or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates or assembles for amusement, recreation of public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or any educational institution wholly or partially supported by public funds, or schools of special instruction, or nursery schools, or day care centers or childrens camps; nothing herein contained shall be construed to include, or apply to, any institute, bona fide club, or place of accommodation, which is by its nature distinctly private provided that where public use is permitted that use shall be covered by this section; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution; and the right of a natural parent in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed.

Exclusions.

Right to employment and full enjoyment of accommodations —violation.

Section 3. Every person who denies to any other person because of race, creed, color or national origin the right to employment; (a) by refusing to hire, (b) by discharging, (c) by barring from employment, or (d) by discriminating against such person in compensation or in other terms or conditions of employment; and every person who denies to any other person because of race, creed, color or national origin the full enjoyment of any of the accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage or amusement, shall be guilty of a misdemeanor.

Approved March 6, 1965.

CHAPTER 202

An Act to Provide a Reputable Presumption That Possession of Recently Stolen Livestock Shall be Deemed Prima Facie Evidence of Guilt of Larceny.

HeinOnline -- 1965 678 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The possession, claim of ownership or control over recently stolen livestock shall be deemed prima facie evidence of guilt of larceny of that livestock unless this presumption is rebutted or contradicted by other credible evidence.

Possession of or control over recently stolen livestock prima facie evidence of larceny.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 6, 1965.

CHAPTER 203

An Act to Amend Section 82-3318, R. C. M. 1947, to Provide for the Appointment of a Three-Member Advisory Council Consisting of a Licensed Architect, a Licensed General Building Contractor and a Consulting Engineer to Assist and Advise the State Controller; Providing for Regular Meetings of Such Council; Providing an Effective Date; Providing for Per Diem and Travel Expenses for the Members of Such Advisory Council; and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 82-3318, R. C. M. 1947, be amended to read as follows:

Amending clause.

"82-3318. **General powers and duties of controller.** In carrying out his powers relating to the construction of buildings the controller may:

General powers and duties of controller.

(1) Inspect buildings not under construction.

(2) Contract with the federal government for advance planning funds.

(3) Purchase, lease and acquire by exchange or otherwise, land and buildings in Lewis and Clark county and equipment and furnishings for such buildings.

(4) Issue and sell bonds and other securities.

(5) Maintain an inventory of all buildings.

(6) Appoint *a three member advisory council consisting of one licensed architect, one licensed general building contractor and one consulting engineer* to advise and assist

Advisory council —appointment —qualifications —meetings —compensation.

HeinOnline -- 1965 679 1965

him on matters involving their respective professions. *Said advisory council, in conjunction with the controller, shall establish minimum standards and test requirements on materials used in public buildings, works or improvements of the State of Montana, or any agency thereof, and shall maintain a file of resident duly licensed and/or registered Architects and Engineers showing professional qualifications for employment on public buildings, works or improvements of the State of Montana or any agency thereof. The council shall meet quarterly in Helena, Montana, at the office of the state controller and at such other times as construction progress requires. The members of said council shall receive twenty-five dollars ($25) per diem and shall be reimbursed eight cents (8¢) per mile for travel expenses.*

Project representative.

(7) Appoint a project representative to supervise architects' and consulting engineers' inspection of construction of buildings to assure that all construction is in accordance with the contracts, plans and specifications. The cost of such supervision may be charged against moneys available for construction."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved March 6, 1965.

CHAPTER 204

An Act to Amend Section 66-1315, R. C. M. 1947, by Providing for Prosecution of Violations Under the Act Regulating the Practice of Optometry.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 66-1315, R. C. M. 1947, is amended to read as follows:

Duty of county attorney.

"66-1315. *It is the duty of a county attorney of a county wherein a violation under this act is alleged to have occurred to proscute such violation in the district court in said county. The state attorney general shall appear as counsel for the board in the state supreme court.*

Approved March 6, 1965.

HeinOnline -- 1965 680 1965

CHAPTER 205

An Act to Amend Section 75-1813, R. C. M. 1947, Relating to the Creation of School Districts by Consolidation and Annexation of Existing School Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-1813, R. C. M. 1947, is amended to read as follows: Amending clause.

"75-1813. (1034) **Consolidated districts — procedure in event of consolidation — *annexation* — bonded debts.** Consolidated districts. Any two or more school districts lying on one county may be consolidated, either by the formation of a district *by consolidation*, or by the annexation of one or more districts to an existing district, as hereinafter provided.

When severally the boards of trustees of two (2) or more school districts, in regular meeting called for the publicly announced purpose of considering plans for consolidation of said two (2) or more districts and by majority vote of each board of trustees acting separately shall ask for district consolidation of each and all such petitioning boards, the county superintendent of schools having jurisdiction of such districts, within not less than twenty (20) nor more than thirty (30) days, shall cause notice *of election* to be given by the clerk in each district seeking election on such proposed consolidation of districts. Such notice is to be posted in three (3) public places in each such district and *published* in *a* newspaper *published in the county and having general circulation in the school districts,* giving the time and place or places specified in each notice to vote on the question of consolidation. Procedure—meeting of boards of trustees. Notice of election. Posting—publication.

Consolidation of any two (2) or more school districts lying in one county may also be effected by the people of the districts concerned whenever a petition shall be directed to and received by the county superintendent of schools, and shall in each such district seeking consolidation be signed by not fewer than twenty per cent (20%) of the qualified electors in such district. The county superintendent shall within not less than twenty (20), nor more than thirty (30) days, cause *notice to be given as provided in the next preceding paragraph.* Petition for consolidation.

The votes at such election shall be by ballot, which shall read 'For consolidation' or 'Against consolidation.' The Votes.

HeinOnline -- 1965 681 1965

judge or judges at such election shall, within ten (10) days thereafter, certify the result of the vote to the county superintendent of the county in which the district lies.

Order—appointment of trustees—terms.

If the majority of the votes cast in each district holding such election be for consolidation, it carries, and the superintendent, within ten (10) days thereafter, shall make a proper order to give effect to such vote, and shall thereafter transmit a copy thereof to the county clerk and recorder and to the clerk of each district affected. If the order be for the formation of a new district, it shall specify the number of such district, and the county superintendent shall appoint *trustees and designate the terms of office to be served by each until subsequent school elections shall determine their successors.*

Election of trustees.

At the regular election succeeding there shall be elected by the regularly qualified electors *the number of trustees required to replace those whose terms are expiring.* The election of trustees and terms shall be the same as for other districts under the general school laws.

Annexation.

When, in the interest of reducing costs of operation or improving the school service for pupils, a board of trustees of a third class district *seeking to annex its territory to a third class district or districts maintaining a high school, a second class district or districts, or a first class district or districts or any combination thereof; a board of trustees of a third class district maintaining a high school seeking to annex its territory to a second class district or districts or a first class district or districts or any combination thereof; or the board of trustees of a second class district seeking to annex its territory to a first class district or districts,* shall by majority vote of its members or at the request of twenty per cent (20%) of the qualified electors of the districts indicated by a petition, ask the county superintendent of schools to annex the territory and property of such district to *any district or districts as herein provided.* As the board resolution or petition requests, the county superintendent shall, upon an approving vote of the trustees of the district *or districts* with which the annexation is sought, authorize an election *in the petitioning district* on such annexation within not less than twenty (20) nor more than thirty (30) days. Notice of such election shall be given in the same manner and the same general plan for balloting shall be utilized on the question of

Vote of board or petition.

Notice of election.

HeinOnline -- 1965 682 1965

district annexation by the electors of the petitioning district that is authorized *herein* for district consolidation.

Ballot.

The ballot shall in this case be 'For annexation' and 'Against annexation.' Should the action of the boards of trustees approving the plan of annexation be approved by majority vote of electors of the district seeking *annexation* then the *annexation* sought shall be effected by *order of* the county superintendent of schools within ten (10) days after such election. In the event of a disapproving vote by majority of votes cast the proposed annexation shall fail.

Order.

Annexation—records and funds.

In case of annexation of any district to any existing district *or districts,* as herein provided, the proper officers of the annexed districts, within ten (10) days from the receipt of a copy of *the annexation* order, shall turn over to the proper officers of the district *or districts* to which *it is* annexed, all records, funds, and effects of such annexed district. *When a district is proportionately annexed, as provided herein, section 75-1808, Revised Codes of Montana, 1947, controls.* In case of the formation of a district *by consolidation* the proper officers of the discontinued *district or* districts in like manner, within ten (10) days after the organization of the district *by consolidation,* shall turn over the records, funds, and effects of such old district to the proper officers of the district *created by consolidation.*

Consolidation—records and funds.

Creation of district by annexation—title to school houses—officers.

In case of *creation of a* district by annexation, the title to schoolhouses and sites of the *petitioning district* shall vest in the *receiving* district *or districts in which the school houses and sites are located.* The officers of the *receiving* district *or districts* shall continue to hold office until the end of the terms for which they were duly elected and their successors shall be regularly elected as provided by law.

General school laws of state.

School districts *created by consolidation or annexation* shall be governed by the general school laws of the state.

Bonded debts.

Bonded indebtedness of any district *resulting from merger* by consolidation or annexation shall remain the indebtedness and obligation of the district which originally incurred such bonded indebtedness and be paid by levies imposed upon property therein."

HeinOnline -- 1965 683 1965

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved March 6, 1965.

CHAPTER 206

An Act Relating to Special Improvement Districts in Cities and Towns; and Amending Section 11-2202, R. C. M. 1947, to Permit Improvement Districts For Building and Constructing Municipal Swimming Pools and Other Recreation Facilities.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 11-2202, R. C. M. 1947, is amended to read as follows:

Special improvement districts in public interest or convenience—improvements.

"11-2202. (1) Whenever the public interest or convenience may require, the city council is hereby authorized and empowered to create special improvement districts, for building, constructing and maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water, *and for building and constructing municipal swimming pools and other recreation facilities,* and order the whole, or any portion or portions, either in length or width, of any one or more of the streets, avenues, alleys, or places or public ways of any such city, graded or regraded to the official grade, planked or replanked, paved or repaved, macadamized or remacadamized, graveled or regraveled, piled or repiled, capped or recapped, surfaced or resurfaced, oiled or re-oiled, and to order the construction or reconstruction therein of sidewalks, crosswalks, culverts, bridges, gutters, curbs, steps, parkings, including the planting of grassplots and setting out of trees; sewers, ditches, drains, conduits, and channels for sanitary and drainage purposes, or either or both thereof, with outlets, cesspools, manholes, catchbasins, flush tanks, septic tanks, connecting sewers, ditches, drains, conduits, channels, and other appurtenances; water-works, water mains, and extensions of water mains; pipes, hydrants, hose connections for irrigating purposes; appliances for fire protection, tunnels, viaducts, conduits, subways, breakwaters, levees, retaining walls, bulkheads, and walls of rock or

HeinOnline -- 1965 684 1965

other material to protect the same from overflow or injury by water; the opening of streets, avenues, and alleys; the planting of trees thereon; and to maintain, preserve and care for any and all of the improvements herein mentioned; and the construction or reconstruction in, over, or through property or rights of way owned by such city, of tunnels, sewers, ditches, drains, conduits, and channels for sanitary and drainage purposes, or either or both thereof, with necessary outlets, cesspools, manholes, catchbasins, flush tanks, septic tanks, connection sewers, ditches, drains, conduits, channels, and other appurtenances; pipes, hose connections for irrigating, hydrants and appliances for fire protection; and breakwaters, levees, retaining walls and bulkheads; walls of rock or other material to protect the streets, avenues, lanes, alleys, courts, places, public ways, and other property in any such city from overflow by water; and to order any work to be done which shall be deemed necessary to improve the whole or any portion of such streets, avenues, sidewalks, alleys, or places or public ways, or property, or right of way of such city. The city council is also hereby authorized to create a district as hereinafter specified, for the purpose of defraying the cost of acquiring private property for the purpose of opening, widening, or extending any street, avenue, or alley within the corporate limits of such city.

Jurisdiction and powers of council —underground conduit.

(2) It is further provided that the council shall have the same jurisdiction and powers as in this section above provided, to (before doing any of the work mentioned in this act) require any public service corporation, or company, firm, or person occupying such streets, avenues, or alleys, at their own expense and within a reasonable time to be fixed by the council, place in an underground conduit in such manner as may be directed by the city council, all wires, electric conduits, telephone, telegraph, power, or power transmission lines, or appurtenances thereto, or appliances owned, held, or enjoyed in connection therewith; provided, however, that the whole cost so assessed shall at no time exceed the sum of one dollar and fifty cents per lineal foot, plus the cost of the pipe so laid of the entire length of the water mains laid in such district."

Approved March 6, 1965.

HeinOnline -- 1965 685 1965

CHAPTER 207

An Act Amending Section 69-512, R. C. M. 1947, to Require Clerk and Recorders to Send Copies of Death Certificates to Certain County Clerk and Recorders in Certain Cases.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 69-512, R. C. M. 1947, is amended to read as follows:

Certificate of death or stillbirth—filing.

"69-512. *(1)* A certificate of every death or stillbirth shall be filed with the local registrar of the district in which the death or stillbirth occurred within three (3) days after the occurrence is known; or if the place of death or stillbirth is not known then with the local registrar of the district in which the body is found within twenty-four (24) hours thereafter. In every instance a certificate shall be filed prior to interment or other disposition of the body.

Filing death certificate in county of residence of deceased.

(2) If a state resident dies in a county in this state where he is a non-resident, the clerk and recorder shall send a certified permanent copy of the death certificate to the clerk and recorder of the county where the deceased was a resident, to be filed with other death certificates."

Approved March 6, 1965.

CHAPTER 208

An Act Allowing Certain Trustees to Serve For One (1), Two (2) or Three (3) Year Terms; and Amending Section 14-509, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 14-509, R. C. M. 1947, is amended to read as follows:

Management of business and affairs of cooperative—board—by-laws to provide.

"14-509. (a) The business and affairs of a cooperative shall be managed by a board of not less than five (5) trustees, each of whom shall be a member of the cooperative or of another cooperative which shall be a member thereof. The by-laws shall prescribe the number of trustees, their qualifications, other than those provided for in this act, the manner of holding meetings of the

HeinOnline -- 1965 686 1965

board of trustees and of the election of successors to trustees who shall resign, die or otherwise be incapable of acting. The by-laws may also provide for the removal of trustees from office and for the election of their successors. Without approval of the membership, trustees shall not receive any salaries for their services as trustees and, except in emergencies, shall not be employed by the cooperative in any capacity involving compensation. The by-laws may, however, provide that a fixed fee and expenses of attendance, if any, may be allowed for attendance at each meeting of the board of trustees.

Trustees—term of office—election.

(b) The trustees of a cooperative named in any articles of incorporation, consolidation, merger or conversion, as the case may be, shall hold office until the next following annual meeting of the members or until their successors shall have been elected and qualified. At each annual meeting or, in case of failure to hold the annual meeting as specified in the by-laws, at a special meeting called for that purpose, the members shall elect trustees, *who may serve for one (1), two (2) or three (3) year terms.* Each trustee shall hold office for the term for which he is elected or until his successor shall have been elected and qualified.

Quorum.

(c) A majority of the board of trustees shall constitute a quorum.

Husband and wife holding joint membership as trustee.

(d) If a husband and wife hold joint membership in a cooperative, either one, but not both, may be elected a trustee.

Powers of board.

(e) The board of trustees may exercise all of the powers of a cooperative except such as are conferred upon the members by this act, or its articles of incorporation or by-laws."

Approved March 6, 1965.

CHAPTER 209

An Act Relating to the Time Schedule For Payments to Contracting Architects; and Amending Section 66-115, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1965 687 1965

Amending clause.

Section 1. Section 66-115, R. C. M. 1947, is amended to read as follows:

Rate of compensation—services and functions to include.

"66-115. Said rate of compensation shall constitute full payment for all services and functions whatsoever of the contracting architect or architects and his and their employees and subcontractors including, but not limited to, consultation, preliminary studies, sketches, and estimates of costs, preparation of working drawings and working plans and specifications, preparation of advertisement of bids, bid forms, certificates of estimates, and inspection and supervision of construction; provided, however, that if the architect is caused extra drafting or other expense due to changes ordered by the owner, or due to the delinquency or insolvency of the owner or contractor, or as a result of damage by fire, he shall be equitably paid for such expense and the services involved.

Maximum rate for alterations.

Three per cent (3%) of the cost of construction shall be added to the maximum rate of compensation, as above set forth for alterations to existing buildings.

Compensation schedule for payment.

All compensation payable under this act may be distributed and paid in accordance with the following schedule, to wit: 20% upon completion of studies and preliminary drawings 55% upon completion of working drawings and specifications *15%* during construction, based on contract payment *10% when construction has been completed and accepted by the owner or the duly authorized agent of such owner;* provided, the architect shall be paid at said times at the applicable rate of compensation for any work which is requested by the owner or its duly authorized agent and within the scope of his authority to the extent authorized but abandoned by such owner in whole or in part."

Approved March 6, 1965.

CHAPTER 210

An Act Relating to Construction and Maintenance of Certain Streets and Highways in or Near Incorporated Municipalities.

Be it enacted by the Legislative Assembly of the State of Montana:

State highway commission shall pay entire cost of construction and maintenance of streets and highways—when.

Section 1. (1) Except as provided in subsection (2) of this section, the state highway commission shall pay the entire costs of construction and maintenance of streets and highways which:

HeinOnline -- 1965 688 1965

(a) Are state highway routes; and

(b) Are within municipalities incorporated prior to January 1, 1965.

(2) An incorporated municipality shall pay one-half (½) of the state's share of the cost of curbs and gutters along such streets and highways. Exception.

Section 2. (1) The highway commission shall not construct highway bypasses or highway relocation projects without prior consent of the governing body of an incorporated municipality when the bypasses or projects: Highway bypasses or relocation projects.

(a) Are not part of the national system of interstate highways built under the national defense highway act; and

(b) Divert motor vehicles from an existing highway route through a municipality incorporated prior to January 1, 1965.

(2) The highway commission shall notify the governing body of such municipality by certified mail that they propose to bypass the municipality. No contract shall be let nor work commenced until the governing body notifies the commission of its consent, or until the elapse of sixty (60) days after the notice has been sent by the highway commission to such municipality, whichever first occurs. The failure of such municipality to act and notify the highway commission of its action within such sixty (60) day period shall constitute implied consent to the bypass. Notification of proposal to bypass —contracting —action by municipality.

(3) Actual consent or refusal to bypass shall be in the form of a resolution, duly adopted by a majority of the members of the governing body of the municipality. Resolution.

(4) The governing body may not withdraw consent once the highway commission has been notified of such consent. Consent.

(5) Nothing contained in this act shall in any way modify the provisions of section 32-1625, R. C. M. 1947. Saving clause.

Section 3. This act is effective upon its passage and approval. Effective immediately.

Approved March 6, 1965.

HeinOnline -- 1965 689 1965

CHAPTER 211

An Act Providing For Formation and Control of High School Joint Districts in Adjacent Counties, and Providing Procedures For Creation Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Formation of high school districts—joint district.

Section 1. In addition to the provisions for the formation of high school districts authorized by Section 75-4602, R. C. M. 1947, a high school joint district may be formed in accordance with the provisions of this act.

Definitions.

(a) **Definitions.** For the purposes of this act:

Elementary joint district.

(1) An elementary joint district is a school district consisting of territory lying partly in one county and partly in another;

High school district.

(2) A high school district is territory lying wholly within one county, created in accordance with the provisions of Section 75-4602, R. C. M. 1947;

High school joint district.

(3) A high school joint district is territory lying partly in one county and partly in another, designated a high school joint district in accordance with the provisions of this act;

County L.

(4) County L is a county in which the school operated by an elementary joint district is located;

County NL.

(5) County NL is a county in which the school operated by an elementary joint district is not located.

Procedure for formation of joint district.

(b) **Procedure for formation of high school joint district:**

Petition.

(1) The action to form a high school joint district may be initiated by a majority of the resident taxpayers who are registered electors and whose names appear upon the last completed assessment roll for state, county and school district taxes, residing in an elementary joint district in the whole of the territory of such joint district lying in County NL. Such majority shall present a petition, in writing, to the county superintendent of schools of County NL, asking that the whole of the territory of the elementary joint district in which they reside in County NL be joined to that high school district in County L which includes the territory of the same elementary joint district lying in County L, to form a high school joint district.

HeinOnline -- 1965 690 1965

Petition to describe.

(2) The petition shall describe the territory in County NL proposed to be joined to the high school district in County L, and shall also state the reason for desiring such change, and the number of children of high school age, if any, residing in such territory.

Filing of petition —notice—hearing.

(3) The county superintendent of schools of County NL shall file said petition in his office immediately on receipt thereof, and shall give notice to the parties intertested by posting notices at least ten (10) days prior to the time appointed for considering said petition, one (1) of which shall be in a public place in the territory in County NL proposed to be joined to the high school district in County L, and one (1) on the door of each high school in County NL which would be affected by the proposed change by reason of reduction of the territory designated for the support of such high school. At the time stated in said notice for the consideration of such petition, which shall not be less than ten (10) days nor more than thirty (30) days after the date of filing such petition, the county superintendent shall proceed to hear such petition.

Granting or denial of petition.

(4) The county superintendent shall either grant or deny such petition based on evidence received. If such petition is granted, the county superintendent shall make an order fixing the boundaries of the high school joint district so formed. Subject to the provisions of paragraph (5) of this section, such order shall be final, unless an appeal be taken to the board of county commissioners of County NL within thirty (30) days thereafter, and upon hearing thereof the decision of said board shall be final, provided however that the right of appeal to the district court is reserved. No petition shall be granted when an operating high school exists in County NL within three (3) miles of any point of the territory described in the petition. No petition shall be denied solely because the territory described in the petition lies within the boundaries of a high school district in County NL, provided, however that if the removal of such territory from such high school district would reduce the taxable valuation of such high school district to less than seven hundred fifty thousand dollars ($750,000) the petition shall be denied.

Finality of order.

Right of appeal.

Limitation or denial.

HeinOnline -- 1965 691 1965

Copies of order transmitted to county superintendent—approval.

(5) Copies of the order fixing the boundaries of the high school joint district shall be transmitted by the county superintendent of County NL to the county superintendent of County L and to the board of trustees of the affected high school district in County L, who within thirty (30) days from the receipt thereof shall act to approve or disapprove such order. Before the order will become effective, approval must be given by such county superintendent and by such board of trustees.

General school laws.

Section 2. High school joint districts created hereunder shall be governed by the general school laws of the state.

Bonded indebtedness.

Section 3. Bonded indebtedness of any territory affected by the provisions of this act shall remain the indebtedness and obligation of the original territory against which such bonds were issued and shall be paid for out of levies made against said original territory.

Section 4. This act is effective April 1, 1965.

Approved March 6, 1965.

CHAPTER 212

An Act to Provide for Medical Assistance for the Aged in Conformity with Title I of the Federal Social Security Act of 1935, as Amended; Providing for the Administration of the Act by the State Department of Public Welfare and the County Departments of Public Welfare; Providing Eligibility Requirements for Assistance Under the Act; Providing for Counties' Share of Participation Under the Act; and Amending Sections 71-106, 71-211, 71-216, 71-230, 71-241, 71-308, 71-309, 71-402, 71-405 and 71-406, R. C. M. 1947, to Provide Vendor Payment of Medical Care for Recipients of Old Age Assistance.

Be it enacted by the Legislative Assembly of the State of Montana:

Administration of program of medical aid for the aged and old age assistance.

Section 1. **Provision for administration.** (a) The state department of public welfare (hereafter called "state department") is hereby authorized and empowered to administer and supervise a program of medical aid for the aged (M A A) and old age assistance (O A A) under

HeinOnline -- 1965 692 1965

the powers, duties and functions provided in sections 71-201 through 71-240, R. C. M. 1947.

(b) The state department shall adopt appropriate rules and regulations, not inconsistent with this act, to administer and supervise the said program, and shall define by rules and regulations medical aid for the aged. Such definition shall include, but is not limited to the following:

Rules and regulations.

Definition of medical aid for the aged.

(1) Inpatient hospital services;

(2) Licensed nursing home services;

(3) The professional services of a licensed physician, dentist, osteopath, optometrist, chiropractor, chiropodist or physical therapist;

(4) Outpatient hospital or clinic services;

(5) Home health care services;

(6) Physical therapy and related services;

(7) Dental services;

(8) Laboratory and x-ray services;

(9) Prescribed drugs, eyeglasses, dentures and prosthetic devices;

(10) Diagnostic, screening and preventive services;

(11) Any additional medical service or aid allowable under or provided by the federal social security act.

The foregoing services shall be provided to the fullest extent that monies appropriated, collected, accumulated or matched from any source by the state department will allow. Priorities of the foregoing medical services or aids, if funds are indaequate, shall be determined by the state department.

Priorities of service.

(c) The state department shall advise with and consult at least semiannually with a council composed of duly qualified members of the following organizations: The Montana medical association; the Montana state dental association; the Montana hospital association; the Montana state pharmaceutical association; the Montana nursing home association; the Montana association of county commissioners; the Montana nurses association.

Council to advise and consult.

Each such organization shall select a member of its organization to serve on the council and one (1) alternate

Council members.

HeinOnline -- 1965 693 1965

to serve in his absence. Three (3) additional members shall be appointed by the governor, for terms of three (3) years, one (1) of whom shall be a person engaged in supplying medical aid and services, other than members of the above organizations, and two (2) from the public at large.

Professional freedom for licensed practitioners and freedom of choice to recipients of aid.

(d) The state department shall provide for professional freedom of those licensed practitioners who provide medical care and services under this act, and provide reasonable freedom of choice to recipients of medical aid to select the vendor or provider of medical care or services; provided, that in those counties where county hospitals, supported by county funds, provide adequate equipment, and facilities for the needs of any recipient, the county board of public welfare may require that the recipient be treated or cared for at such county hospital, if suitable vacancies exist in such county hospital.

Processing, investigation and payment of claims.

(e) The state department may, by suitable rules and regulations, provide for processing, investigation and payment of claims under such program of medical aid for the aged with any state or private agency.

Eligibility requirement for medical aid.

Section 2. **Eligibility requirements for medical aid for the aged.** Medical aid for the aged shall be granted to any person who: (a) Is sixty-five (65) years of age or over.

Resident of Montana.

(b) Resides in the state of Montana, including residents temporarily absent from the state.

Not a recipient of OAA.

(c) Is not concurrently a recipient of old age assistance under sections 71-401 through 71-413, R. C. M. 1947.

In need of medical care.

(d) Is in need of medical care or services, as such need may be determined by an attending licensed physician or surgeon, with necessary consultation; or by the county board of public welfare, acting under rules and regulations of the state department, not inconsistent with this act.

Not receiving care or treatment at public expense.

(e) Is not receiving medical care or treatment for mental illness or tuberculosis at a state institution at public expense, or is not receiving medical care and services at any state or federal institution at public expense.

Marital status and income.

(f) Is an unmarried applicant or is separated from his or her spouse and whose income, after deduction of medical expenses paid by the applicant, does not exceed

HeinOnline -- 1965 694 1965

twenty-five hundred ($2,500) dollars during the twelve (12) month period prior to application; or is a married applicant whose income, after deductions of medical expenses incurred combined with the income of his spouse (provided they are living together) does not exceed three thousand ($3,000) dollars. Income shall not include shelter value of the residence occupied by applicant, nor the value of gifts or services contributed to applicant, nor gratuitous payments received from members of his family.

Marital status and resources.

(g) Is an unmarried applicant or is separated from his or her spouse whose resources do not exceed five thousand ($5,000) dollars; or is a married applicant living with his or her spouse and their combined resources do not exceed the value of ten thousand ($10,000) dollars. The value of resources shall be the current market value minus any encumbrances against such resources. In determining resources, there shall be excluded real property occupied as a residence under the unencumbered value of fifteen thousand ($15,000) dollars; household goods and furnishings, an automobile, personal belongings and tools or equipment necessary for a trade, occupation or profession, and the cash values of life insurance policies not in excess of seven thousand five hundred ($7,500) dollars.

Amount of assistance.

Section 3. **Amount of assistance.** The amount of medical aid for the aged granted in behalf of any person shall be determined by a county department of public welfare according to the rules and regulations and standards of assistance established by the state department.

Application for assistance.

Section 4. **Application for assistance.** Application for assistance under this part shall be made to the county office of the county department in the county in which the person is residing. The application shall be presented in the manner and on the form prescribed by the state department. All individuals wishing to apply shall have the opportunity to do so.

County share of participation.

Section 5. **County share of participation.** Each county department shall reimburse the state department in the amount of one-half (½) of the approved medical aid for the aged payments paid by the state department in behalf of persons in the county each month, exclusive of the federal share. Such reimbursement shall be credited to the medical aid for the aged account of the state department.

HeinOnline -- 1965 695 1965

Investigation and determination of eligibility.

Section 6. **Investigation and determination of eligibility.** The county department shall promptly investigate and determine the eligibility of each applicant under this act. Each applicant should be informed of his right to a fair hearing and of the confidential nature of the information given. The county department shall determine whether or not the applicant is eligible for assistance under this act. The county public welfare board shall review the determination of eligibility or non-eligibility made by the county department. Aid shall be furnished promptly to eligible persons. Each applicant shall receive written notice of the decision concerning his application and right of appeal shall be secured to the applicant under the procedures of section 71-223, R. C. M. 1947.

Redetermination of eligibility.

Section 7. **Redetermination of elibigility.** All medical aid for the aged cases approved under this part shall be reviewed as often as shall be required under the rules and regulations of the state department.

Change of residence of person receiving MAA.

Section 8. **Change of residence of person receiving medical assistance for the aged.** A recipient who moves his residence to another county in this state shall continue to receive assistance, with the approval of the state department. The county from which he has moved shall be charged by the state department for such county share of his assistance for a period of one (1) year after which time the county to which he has moved shall be charged therefor. The state department will determine the date of transfer. The county from which a recipient moves shall notify the state department and the county to which the recipient moves.

Confidential records.

Section 9. **Confidential records.** All applications, information and records concerning any applicant or recipient of medical assistance for the aged under the provisions of this act shall be confidential and shall not be disclosed nor used for any purpose not directly connected with the administration of medical assistance for the aged. The violation of this provision is hereby made a misdemeanor and is punishable as such.

Exclusion of lien.

Section 10. **Exclusion of lien.** No applicant hereunder shall be required to execute an agreement for lien on his real property. If an eligible person receives medical aid under this act, and dies leaving no surviving dependent or spouse, the state department shall be entitled to recover

HeinOnline -- 1965 696 1965

the amount of assistance paid from the estate by claiming the same in the estate administration proceedings. Recoveries shall be pro-rated to the county involved in medical assistance in the proportion that it contributed to the medical assistance.

Section 11. Section 71-106, R. C. M. 1947, is amended to read as follows: Amending clause.

"71-106. **Support of poor and indigent persons—tax levy.** The board of county commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law: Support of poor and indigent persons—tax levy.

To provide for the care and maintenance of the indigent sick, *except as otherwise provided in other parts of this act,* or the otherwise dependent poor of the county; erect and maintain hospitals therefor, or otherwise provide for the same, and for said purposes to levy and collect annually, from each resident of the county, between the ages of twenty-one (21) and sixty (60) years a poll tax of two dollars ($2.00) at a meeting of the board of county commissioners held in December of any year, to become effective as of January first of the following calendar year, and a tax on property not exceeding three-fifths (3/5) of one per cent (1%), which last mentioned levy shall be made at the time other tax levies are made on property, as provided by law, or either of such levies when both are not required, and to expend not to exceed five per cent (5%) of any such levy for the collection of said tax, or of any part thereof. Whenever a resolution is adopted levying a per capita tax the clerk of the board shall immediately prepare and deliver copies thereof to the county assessor and county treasurer. The county assessor after receiving such copy of resolution, when making an assessment of any property belonging to any person liable for the payment of such per capita tax must enter on the assessment list, and also on any statement given the taxpayer, showing the value of the property assessed, the amount of such per capita tax, and the county treasurer when collecting the taxes on such property shall at the same time collect the amount of such per capita tax as shown on said statement."

Section 12. Section 71-211, R. C. M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1965 697 1965

Board to act as agency of federal government—assistance to ward Indians.

"71-211. **Board to act as agency of federal government—assistance to ward Indians.** [The state department shall] act as the agent of the federal government in public welfare matters of mutual concern in conformity with this act and the Federal Social Security Act, and in the administration of any federal funds granted to the state to aid in the purposes and functions of the state department.

The counties shall not be required to reimburse the state department any portion of old age assistance, *medical assistance for the aged,* aid to needy dependent children or aid to needy blind or aid to the totally disabled paid to ward Indians, further provided that the federal government may reimburse the state of Montana in behalf of counties, providing general relief to ward Indians, a sum in lieu of taxes which the counties would collect if the lands of such ward Indians were not in trust status. A ward Indian is hereby defined as an Indian who is living on an Indian reservation set aside for tribal use, or is a member of a tribe or nation accorded certain rights and privileges by treaty or by federal statutes. If and when the Federal Social Security Act is amended to define a 'ward Indian,' such definition shall supersede the foregoing definition."

Ward Indian.

Amending clause.

Section 13. Section 71-216, R. C. M. 1947, is amended to read as follows:

Powers and duties of county board.

"71-216. **Powers and duties of the county board.** The county board of public welfare shall be responsible for establishing local policies and such rules and regulations as are necessary to govern the county department and local administration of public welfare activities except that all such policies and rules and regulations must be in conformity with general policies and rules and regulations established by the state board. The county board of public welfare shall review the determinations of eligibility and amount of payment to *or on behalf of* individuals made by the staff of the county department for conformity with the aforesaid rules and regulations. Determinations not in conformity will be referred to the staff by the county welfare board for appropriate action as authorized by said board."

Amending clause.

Section 14. Section 71-230, R. C. M. 1947, is amended to read as follows:

HeinOnline -- 1965 698 1965

"71-230. **Method of issuing assistance grants — reimbursement.** (a) Checks in payment of public assistance, as provided for in each part of this act, with the exception of general relief, shall be issued by the state department upon approved certificates of award and reports of changes of such eligible grantees as are forwarded by the county department to the state department and all such checks will be mailed to the individual recipient *or the appropriate vendor.* The checks in payment of public assistance shall be issued in the full approved amount for each eligible approved grantee and the original monthly payment shall be from the state public welfare accounts. All public assistance checks shall represent cash on demand at full par value to the recipient *and vendor.*

Method of issuing assistance grants.

(b) On or before the twentieth of each month the state department will present a claim for reimbursement to each county department for its proportionate share of public assistance granted in the county *to recipients* during the month *and for vendor medical payments made on behalf of recipients in the previous month.* The county department must make such reimbursement to the state department within twenty (20) days after such claim is presented.

Reimbursement.

Section 15. Section 71-241, R. C. M. 1947, is amended to read as follows:

Amending clause.

"71-241. **Agreement for lien on real property of recipient of public assistance other than recipients of general relief or aid to dependent children.** No application for a public assistance grant, except applications made pursuant to chapter 5, Title 71, Revised Codes of Montana, 1947 (aid to dependent children), and chapter 3, Title 71, Revised Codes of Montana, 1947 (general relief), *and for vendor medical payments in behalf of individuals,* shall be approved unless the applicant shall execute and deliver with such application an agreement, in such form as the state board of public welfare shall prescribe, acknowledging and agreeing that the amount of all assistance thereafter paid to the applicant, from whatever source such assistance may be derived, shall constitute an obligation and indebtedness of the applicant to the state and county which shall be secured by a lien upon all real property of the applicant then owned or acquired while a recipient of such assistance."

Agreement for lien on real property of recipients of public assistance other than recipients of general relief or aid to dependent children.

HeinOnline -- 1965 699 1965

Amending clause.

Section 16. Section 71-308, R. C. M. 1947, is amended to read as follows:

Medical aid and hospitalization.

"71-308. **Medical aid and hospitalization.** Medical aid and hospitalization for persons unable to provide such necessities for themselves are hereby declared to be the legal and financial duty and responsibility of the board of county commissioners, *except as otherwise provided in other parts of this act,* payable from the county poor fund. It shall be the duty of the board of county commissioners to make provisions for competent and skilled medical or surgical services as approved by the state board of health or the state medical association, or in the case of osteopathic practitioners by the state osteopathic association or chiropractors by the state chiropractic association, or optometrical services as approved by the Montana optometric association, and dental services as approved by the dental association. 'Medical' or 'medicine' as used in this act refers to the healing art as practiced by licensed practitioners.

Automobile accident cases involving transients.

In automobile accident cases wherein transients traveling through the state of Montana are injured, medical aid and hospitalization shall be paid for by the county wherein the accident occurred and the department of public welfare shall reimburse such county in full upon proper claim being made to the department of public welfare; provided, further, that in all other accident cases wherein such transients are injured, medical aid and hospitalization shall be paid for by the county wherein the accident occurred and the department of public welfare shall reimburse such county for one-half of such medical aid and hospitalization paid by such county, upon proper claim being made to the department of public welfare.

County physician.

The board, in arranging for medical care for those unable to provide it for themselves, may have the care provided by the physicians appointed by such board who shall be known as county physicians or deputy county physicians, and may fix a rate of compensation for the furnishing of such medical attendance.

Burial.

The board of county commissioners shall have the responsibility of making suitable arrangements to provide respectable burial for those for whom such expenses are not otherwise available."

HeinOnline -- 1965 700 1965

Section 17. Section 71-309, R. C. M. 1947, is amended to read as follows: Amending clause.

"71-309. **Primary obligations of the board of county commissioners.** *Except as otherwise provided in other parts of this act, it* is hereby declared to be the primary legal duty and financial obligation of the board of county commissioners to make such tax levies and to establish such budgets in the county poor fund as provided by law and as are necessary to provide adequate institutional care for all such indigent residents as are in need of institutional care and to make such tax levies and establish such budgets in the county poor fund as are necessary to make provisions for medical aid and services and hospitalization for all indigent county residents. All such public assistance and services shall be charges against and payable from the county poor fund." Primary obligations of the board of county commissioners.

Section 18. Section 71-402, R. C. M. 1947, is amended to read as follows: Amending clause.

"71-402. **Eligibility requirements for old age assistance.** Old age assistance shall be granted any person who: Eligibility requirement for old age assistance.

(a) Has attained the age of sixty-five (65); Age.

(b) Has income which is inadequate to provide a reasonable subsistence compatible with decency and health; Income.

(c) Has been a resident of the state of Montana for at least five (5) years during the nine (9) years immediately preceding his application for old age assistance; Residence.

(d) Has resided in and been an inhabitant of the state and county in which application is made for at least one (1) year immediately preceding the date of receipt of this assistance. Any person otherwise qualified who has resided in the state for five (5) years or more during the nine (9) years immediately preceding the application, one (1) year of which state residence shall have been immediately prior to the date of receipt of this assistance, and who has no legal county residence, shall file his application in the county in which he is residing, and his assistance shall be paid entirely from state funds until he can qualify as having a legal residence in the said county; Resident of state and county.

(e) Is not at the time of receiving assistance an inmate of any public institution, except as a patient in a public medical institution; is not a patient in an institution for Not an inmate of public institution —exception.

HeinOnline -- 1965 701 1965

the treatment of tuberculosis or mental illness or is not a patient in a medical institution as a result of having been diagnosed as having tuberculosis or psychosis;

Transfer of property for purpose of eligibility.

(f) Has not made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this act at any time within *five (5)* years immediately prior to the filing of application for assistance pursuant to the provisions of this act;

Not receiving other aid.

(g) Is not receiving aid to dependent children, aid to needy blind or aid to the permanently and totally disabled, *or medical aid for the aged,* for himself or herself."

Amending clause.

Section 19. Section 71-405, R. C. M. 1947, is amended to read as follows:

County share of participation.

"71-405. **County share of participation.** Each county department shall reimburse the state department in the amount of one-third (1/3) of the approved old age assistance grants paid by the state department to persons in the county each month, exclusive of the federal share. *Each county department shall reimburse the state department in the amount of one-half (½) of the approved old age assistance vendor medical payments on behalf of persons in the county each month, exclusive of the federal share.* Such reimbursements shall be credited to the old age assistance account of the state department."

Amending clause.

Section 20. Section 71-406, R. C. M. 1947, is amended to read as follows:

Investigation of applications.

"71-406. **Investigation of applications.** Whenever a county public welfare department receives an application for an old age assistance grant *or for medical care on behalf of an old age assistance recipient,* an investigation shall be promptly made. The investigation of each applicant for old age assistance shall be conducted by the county board through a staff worker of the county department. Each applicant shall be informed of his right to a fair hearing and of the confidential nature of information secured with regard to his circumstances. Upon completion of such investigation the county welfare board shall determine whether the applicant is eligible for and should receive a grant, the amount of the assistance and the date on which assistance shall begin. Aid shall be furnished promptly to all eligible persons. Each

Hearing.

HeinOnline -- 1965 702 1965

applicant shall receive written notice of the decision concerning his application."

Approved March 8, 1965.

CHAPTER 213

An Act Amending Section 75-1904, R. C. M. 1947, to Provide For the Cooperation of the Public Health Nurse or School Nurse or Public Health Medical Officer in Taking a Census of Handicapped Children and Providing That Such a Census be Conducted at Least Once Every Four Years as Directed by the State Superintendent of Public Instruction in Cooperation With the State Board of Health.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-1904, R. C. M. 1947, is amended to read as follows: Amending clause.

"75-1904. It shall be the duty of the county superintendent of schools upon receipt of the report as provided in section 75-1903 to carefully examine the same and check it for errors or duplications with other census reports filed by other clerks of school districts of his county. For the purposes of assisting him in checking duplication in such reports, he shall make an alphabetical card index, classified by families, showing the names of all children on the school census, which index shall be kept current according to the census reports turned in to him each year. If the name of the same person be found upon more than one report or if the report contains names which are fictitious or names which properly belong in some other school district, he shall strike out such fictitious names and all duplicate names from all lists except that of the district in which such person was residing in good faith on the first day of October. If the county superintendent should find upon any census list the names of any persons who he believes were not residents in good faith in such district as aforesaid or which he believes are ficticious, he shall notify the clerk of the particular school district and if said clerk shall not establish the correctness of the list within fifteen (15) days after such notification, such names shall be stricken

Duty of county superintendent to check report for errors or duplications—index.

HeinOnline -- 1965 703 1965

Handicapped children.

from the list. At the time of taking the annual census the clerk, *with the cooperation of the public health nurse or school nurse or public health medical officer,* shall use reasonable diligence to ascertain the names of all handicapped children in the district and such information concerning the same as is required by the state superintendent of public instruction, *except that such a survey of handicapped children need not be conducted annually but shall be made at least once every four years at the time of the annual school census as directed by the state superintendent of public instruction in cooperation with the state board of health."*

Approved March 8, 1965.

CHAPTER 214

An Act Providing For the Election of Additional Trustees to the Boards of Trustees of High School Districts; Providing For the Establishment of Trustee Nominating Districts, and Amending Section 75-4601.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-4601, R. C. M. 1947, is amended to read as follows:

Boards of trustees —designation.

"75-4601. In any county having a high school the board of trustees of the county high school, if there be one, and the boards of trustees of any school districts maintaining district high schools, are hereby designated as the boards of trustees of the respective high school districts established under this act, provided that additional members may be elected to the board of trustees of districts maintaining district high schools in the number and manner as follows: When a majority of the boards of the common school districts in the high school district so request, such requests shall be directed to the county superintendent of schools, who shall proceed as directed in this act.

Taxable valuation and trustees to determine additional board members.

The taxable valuation of the district in which the high school is located shall be divided by the number of trustees on the high school board. In the case of a first class district this number shall be seven (7), for a second class

HeinOnline -- 1965 704 1965

district five (5), and for a third class district three (3). This figure obtained shall then be divided into the remaining valuation of the high school district, and the resulting number, to the closest whole number, shall be the number of additional board members to be elected; provided, that the number of these additional board members shall not exceed four (4) in districts of the first and second class or two (2) in districts of the third class.

Trustee nominating districts.

(a) Following the determination of the number of additional board members to be elected, the county superintendent of schools shall district the territory of the high school district, excluding the common school district wherein the high school is located, into a number of trustee nominating districts equal to the number of additional board members to be elected, and each trustee nominating district so established shall be entitled to one (1) member on the board of trustees of the high school.

Election—term of office.

The election of the additional trustees shall be held on the first Saturday in April of every year to fill the expired terms of such additional trustees, and the term of office of such additional trustees after the first election of such trustees shall be for three (3) years.

Additional trustees.

The additional trustees so elected shall be residents of the respective trustee nominating districts established by the county superintendent of schools, and shall meet the general qualifications for school district trustees provided by section 75-1601, Revised Codes of Montana, 1947.

Terms of office.

At the first election the additional trustees elected from the trustee nominating districts established by the county superintendent of schools, if there be more than one, shall cast lots to determine the length of time each shall hold office. If there is one (1) additional trustee, he shall hold office for three (3) years. If there are two (2) additional trustees, one shall hold office for three (3) years and one for two (2) years. If there are three (3) additional trustees, one shall hold office for three (3) years, one for two (2) years and one for one (1) year. If there are four (4) additional trustees, two shall hold office for three (3) years, one for two (2) years and one for one (1) year.

Procedure.

The procedure for calling and holding elections, and for the assumption of office, for the school district

HeinOnline -- 1965 705 1965

wherein the high school is located shall govern the election of the additional trustees herein provided for.

Nomination—filing—ballots.

At least twenty (20) days preceding the election, any ten (10) electors of *a* trustee nominating district established as provided for in this act, who are qualified to vote in the election for such additional trustee, shall file with the district clerk of the school district wherein the high school is located the nomination of any qualified person to be a candidate for such trustee from such nominating district. Ballots for the election of such additional trustees shall be prepared in the same form and manner as ballots are prepared for other trustees, providing that such ballots for additional trustees shall show clearly the trustee nominating district from which each nominee is a candidate.

Voting—electors.

Any qualified elector of *a* nominating district, excluding the district where the high school is located, may vote for the additional trustees so nominated, at the time and place of the annual election of school trustees in the common school district in which he is entitled to vote, provided that each elector may vote *only* for such additional trustee from *the* trustee nominating district *in which he is a qualified elector*.

Vacancy—appointment.

A vacancy in the office of additional trustee shall be filled by appointment by the county superintendent of schools; provided, that such appointment shall be subject to confirmation by a majority of the remaining members of the high school district board including the additional members. The trustee so appointed shall hold office until the next annual election, at which election there shall be elected a trustee from the same nominating district for the unexpired term.

Additional members—participation.

(b) The additional members elected to the board of trustees of districts maintaining high schools, shall take office immediately after qualifying and shall participate on an equal basis with other members in all business transacted by the board of trustees pertaining to the high school maintained by said districts. Said additional elected members shall be entitled to vote on the selection of the district superintendent of schools.

Program of public works—resolution of board or petition.

To effectuate the purpose of this act, the board of trustees of any high school district, as herein provided for, is hereby authorized to undertake a program of

HeinOnline -- 1965 706 1965

public works in the construction, improvement or repair of buildings, furnishing and equipping the same and purchasing the necessary land therefor, for the use of any or all high schools in such high school district, and to accept funds from the United States, its instrumentalities or any of its agencies in aid of any one or more of such purposes. Such proceedings may be commenced by resolution upon the part of such board of trustees of such high school district of its own motion and without any petition being filed therefor, such proceedings may also be commenced on petition of thirty per cent (30%) of the qualified electors of the high school district. Upon presentation of this petition to the high school district board of trustees, the latter shall, within sixty (60) days take steps to present the matter asked for in the petition to a vote of the people of the high school district."

Approved March 8, 1965.

CHAPTER 215

An Act Amending Section 44-127, R. C. M. 1947, Defining the Powers and Duties of the State Library Commission: and Repealing Sections 44-129 and 44-130, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 44-127, R. C. M. 1947, is amended to read as follows: Amending clause.

"44-127. A commission is hereby created to be known as the state library commission. This commission shall consist of the librarian of the state university, the state superintendent of public instruction, ex officio member, and the three members to be appointed by the governor, who shall serve one, two and three years respectively. As these terms expire, annually thereafter one person shall be appointed, for a term of three years. *The commission shall annually elect a chairman from its membership.* The members of said commission shall receive no compensation for their services except their actual and necessary expenses." State library commission—creation —members—terms —chairman —compensation.

Section 2. The state library commission shall have the power: (1) To give assistance and advice to all Powers.

HeinOnline -- 1965 707 1965

tax-supported or public libraries in the state and to all counties, cities, towns or regions in the state which may propose to establish libraries, as to the best means of establishing and improving such libraries;

(2) To maintain and operate the state library and make provision for its housing;

(3) To accept and to expend in accordance with the terms thereof any grant of federal funds which may become available to the state for library purposes;

(4) To make rules and regulations and establish standards for the administration of the state library, and for the control, distribution and lending of books and materials;

(5) To serve as the agency of the state to accept and administer any state, federal or private funds or property appropriated for or granted to it for library service or to foster libraries in the state and to establish regulations under which funds shall be dispersed;

(6) To provide library services for the blind;

(7) To furnish, by contract or otherwise, library assistance and information services to state officials, state departments and residents of those parts of the state inadequately serviced by libraries;

(8) To act as a state board of professional standards and library examiners and develop standards for public libraries and adopt rules and regulations for the certification of librarians.

Repealing clause.

Section 3. Sections 44-129 and 44-130, R. C. M. 1947, are repealed.

Approved March 8, 1965.

CHAPTER 216

An Act to Amend Section 25-605, R. C. M. 1947, Which Relates to the Salaries of County Officers; and to Provide for an Increase in Salaries of Those County Officers.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1965 708 1965

Section 1. Section 25-605, R. C. M. 1947, is amended to read as follows: Amending clause.

"25-605. **Salaries of certain county officers.** The salaries of county treasurers, clerk and recorder, clerk of the court, county attorneys, sheriffs, county assessors, county superintendents of schools, and of county surveyors in counties where county surveyors now receive salaries as provided in section 32-303, Revised Codes of Montana, 1947, shall be based on the population and taxable valuation of the county in accordance with the following schedule: Salaries of certain county officers.

Salary schedule.

POPULATION OF COUNTY	*SALARY COLUMN A*
Below 3,000	*$2075*
3,000 to 3,999	*2125*
4,000 to 4,999	*2175*
5,000 to 5,999	*2225*
6,000 to 6,999	*2275*
7,000 to 7,999	*2425*
8,000 to 8,999	*2475*
9,000 to 9,999	*2525*
10,000 to 12,499	*2575*
12,500 to 14,999	*2625*
15,000 to 17,499	*2675*
17,500 to 19,999	*2725*
20,000 to 24,999	*2775*
25,000 to 29,999	*2825*
30,000 to 39,999	*2875*
40,000 to 49,999	*2950*
50,000 to 59,999	*3050*
60,000 to 69,999	*3150*
70,000 to 79,999	*3250*
80,000 to 89,999	*3350*
90,000 to 99,999	*3450*
100,000 and over	*3550*

TAXABLE VALUATION OF COUNTY	*SALARY COLUMN B*
Below $2,000,000	*$2075*
$ 2,000,000 to 2,999,999	*2125*
3,000,000 to 3,999,999	*2175*
4,000,000 to 4,999,999	*2225*
5,000,000 to 5,999,999	*2275*
6,000,000 to 6,999,999	*2425*

HeinOnline -- 1965 709 1965

7,000,000	to	7,999,999	*2475*
8,000,000	to	9,999,999	*2525*
10,000,000	to	11,999,999	*2575*
12,000,000	to	13,999,999	*2625*
14,000,000	to	15,999,999	*2675*
16,000,000	to	17,999,999	*2725*
18,000,000	to	19,999,999	*2775*
20,000,000	to	22,499,999	*2825*
22,500,000	to	24,999,999	*2875*
25,000,000	to	29,999,999	*2950*
30,000,000	to	34,999,999	*3050*
35,000,000	to	39,999,999	*3150*
40,000,000	to	44,999,999	*3250*
45,000,000	to	49,999,999	*3350*
50,000,000	to	54,999,999	*3450*
55,000,000	to	59,999,999	*3550*
60,000,000	to	64,999,999	*3550*
65,000,000	to	69,999,999	*3550*
70,000,000	to	74,999,999	*3550*
75,000,000	to	79,999,999	*3550*

Total salary.

The total salary paid to county treasurers, clerk and recorder, clerk of the court, county attorneys, sheriffs, county assessors, county superintendents of schools, and county surveyors in counties where county surveyors receive salaries, as provided in section 32-303, Revised Codes of Montana, 1947, shall be the sum of the salary shown in column A based on population when added to the salary shown in column B based on taxable valuation*; provided, however, that county superintendents of schools shall receive, in addition to the salary based upon the totals of columns A and B above, the sum of four hundred dollars ($400) per year.*"

County superintendent of schools to receive additional salary.

Approved March 8, 1965.

CHAPTER 217

An Act to Provide for the Support of the Government of Montana for the Years 1965 and 1966, Providing a Severability Clause and an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Property tax levies for 1965.

Section 1. The following tax levies for state purposes are hereby made upon all property in the state of Mon-

HeinOnline -- 1965 710 1965

tana, subject to taxation, for the year 1965, as ascertained by taking the percentage of the true and full value provided by law for purposes of taxation, to-wit:

State general fund.

(a) For the state general fund, two (2) mills, or so much thereof as the state board of equalization may find necessary, under the provisions of section 84-713, Revised Codes of Montana, 1947.

University millage fund.

(b) For the university millage fund, to provide funds for the support of the Montana university system, as provided in referendum measure No. 61 and passed by vote of the people at the general election held November 4, 1958, six (6) mills, or so much thereof as may be necessary to raise the amount appropriated by the legislative assembly from the university millage fund for support of the units of the Montana university system.

University of Montana building bond interest and redemption fund.

(c) For the university of Montana building bond interest and redemption fund created under referendum measure No. 52, one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of *referendum measure No. 52.*

Montana state hospital for the insane bond interest and redemption fund.

(d) For the Montana state hospital for the insane bond interest and redemption fund created under referendum measure No. 57, one-half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of *referendum measure No. 57.*

Montana state training school bond interest and redemption fund.

(e) For the Montana state training school bond interest and redemption fund created under referendum measure No. 58, one-half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of *referendum measure No. 58.*

Property tax levies for 1966.

Section 2. The following tax levies for state purposes are hereby made upon all property in the state of Montana, subject to taxation, for the year 1966, as ascertained by taking the percentage of the true and full value provided by law for the purposes of taxation, to-wit:

State general fund.

(a) For the state general fund, two (2) mills, or so much thereof as the state board of equalization may find necessary under the provisions of section 84-713, Revised Codes of Montana, 1947.

University millage fund.

(b) For the university millage fund, to provide funds for the support of the Montana university system, as pro-

HeinOnline -- 1965 711 1965

vided in referendum measure No. 61 and passed by vote of the people at the general election held November 4, 1958, six (6) mills, or so much thereof as may be necessary to raise the amount appropriated by the legislative assembly from the university millage fund for support of the units of the Montana university system.

University of Montana building bond interest and redemption fund.

(c) For the university of Montana building bond interest and redemption fund created under referendum measure No. 52, one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of *referendum measure No. 52.*

Montana state hospital for the insane bond interest and redemption fund.

(d) For the Montana state hospital for the insane bond interest and redemption fund created under referendum measure No. 57, one half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under the provisions of *referendum measure No. 57.*

Montana state training school bond interest and redemption fund.

(e) For the Montana state training school bond interest and redemption fund created under referendum measure No. 58, one-half (½) of one (1) mill or so much thereof as the state board of equalization may find necessary, under provisions of *referendum measure No. 58.*

Severability clause.

Section 3. If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act.

Effective immediately.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1965.

CHAPTER 218

An Act to Amend Section 27-203, R. C. M. 1947, by Adding Thereto a Subsection Which Would Provide That One Who Manufactures or Sells an Economic Poison Warrants the Same to Any Buyer or Ultimate User That the Product Is Free from Defects, That Improper Materials Were Not Knowingly Used Therein, and That the Product Is Reasonably Fit and Suitable for the Particular Purposes for Which It Was Manufactured and Sold.

HeinOnline -- 1965 712 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 27-203, R. C. M. 1947, is hereby amended by adding thereto a subsection (c) so that as amended the said section reads as follows:

Amending clause.

"27-203. **Prohibited acts.** (a) It shall be unlawful for any person to distribute, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

Prohibited acts—distribute, sell or offer for sale economic poison —when.

(1) Any economic poison which has not been registered pursuant to the provisions of section 27-203 [27-204] or any economic poison if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of an economic poison differs from its composition as represented in connection with its registration; provided, that, in the discretion of the board, a change in the labeling or formula of an economic poison may be made within a registration period without requiring re-registration of the product.

(2) Any economic poison unless it is the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container can not be clearly read, a label bearing:

(a) the name and address of the manufacturer, registrant, or person for whom manufactured;

(b) the name, brand, or trade mark under which said article is sold; and,

(c) the net weight or measure of the content subject, however, to such reasonable variations as the director may permit.

(3) Any economic poison which contains any substance or substances in quantities highly toxic to man, determined as provided in section 27-205 unless the label shall bear, in addition to any other matter required by this act,

(a) the skull and crossbones;

HeinOnline -- 1965 713 1965

(b) the word 'poison' prominently, in red, on a background of distinctly contrasting color; and,

(c) a statement of an antidote for the economic poison.

(4) The economic poison commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate, unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this act, or any other white powder economic poison which the board, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, shall, by regulation, require to be distinctly colored or discolored; unless it has been so colored or discolored; provided, that the board may exempt any economic poison to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if it determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health.

(5) Any economic poison which is adulterated or misbranded.

(b) It shall be unlawful:

Wilfully or maliciously detach, alter, deface or destroy labeling or add to or take any substance from an economic poison to defeat act—use of formulas.

(1) for any person to wilfully or maliciously detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this act or regulations promulgated hereunder, or to add any substance to, or take any substance from, an economic poison in a manner that may defeat the purpose of this act;

(2) for any person to use for his own advantage or to reveal, other than to the board or proper officials or employees of the state or to the courts of this state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of section 27-204.

Warranty.

(c) One who manufactures or sells an 'economic poison' thereby warrants to any buyer or any ultimate user that

HeinOnline -- 1965 714 1965

the product is free from any latent defect arising from the process of manufacture, and also that neither the manufacturer nor seller nor their agents, servants or employees have knowingly used improper materials therein, and also that the product is reasonably fit and suitable for the particular purposes for which it was manufactured and sold."

Approved March 8, 1965.

CHAPTER 219

An Act Amending Section 94-3550, R. C. M. 1947, Relating to Defrauding the Owner of an Inn or Hotel, Mobile Home Park, Tourist Camp Grounds as Defined by Section 69-112, R. C. M. 1947, Restaurant, Cafe, Apartment, Rooming or Boardinghouse, or Hospital; Providing for a Penalty for Violation Thereof; Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 94-3550, R. C. M. 1947, is amended to read as follows: Amending clause.

"Section 94-3550. (11519) **Defrauding inn and hotelkeepers, etc.—penalty.** Any person who shall put up at any inn or hotel, *mobile home park, tourist camp grounds, as defined by section 69-112, R. C. M. 1947,* restaurant, cafe, apartment, rooming or boarding-house, or hospital, and who shall (except where credit is given by agreement) procure any food, entertainment or accommodation without paying therefor and with intent to cheat and defraud the owner or keeper thereof out of his pay for same, or who, with intent to cheat and defraud such owner or keeper out of the pay thereof, shall obtain credit at any hotel or inn, *mobile home park, tourist camp grounds,* restaurant, cafe, apartment, rooming or boarding-house or hospital for such food, entertainment or accommodation by means of any false show of baggage or effects brought thereto, or shall with such intent remove or cause to be removed any baggage or effects from any hotel or inn, *mobile home park, tourist camp grounds,* restaurant, cafe, apartment, rooming or boarding-house, or hospital, where there is a lien existing thereon for the proper charges due from such guest for fare and board furnished therein Defrauding inn and hotelkeepers, etc. —penalty.

HeinOnline -- 1965 715 1965

shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment not exceeding three months or by fine not exceeding one hundred dollars and cost, or both such fine and imprisonment."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 8, 1965.

CHAPTER 220

An Act Amending Section 66-114, R. C. M. 1947, by Requiring Architects to Have Adequate Errors and Omissions Insurance When Performing Any Supervisory Acts Relating to the Construction of Any Public Buildings, Works or Improvements; Such Insurance to Be in Effect for Three (3) Years After Completion of the Public Buildings, Works or Improvements.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 66-114, R. C. M. 1947, is amended to read as follows:

Scale of compensation for architects on public buildings.

"66-114. **Scale of compensation for architects on public buildings.** No payment for professional services of any architect or architects, relating to the planning or construction of public buildings of the state of Montana, or any agency thereof, or of any county, city, or school district in the state, shall hereafter be made at any greater rate of compensation for such professional services than hereinafter set forth; and no contract for professional services of any architect or architects, relating to the planning or construction of any such public buildings, works or improvements, shall hereafter be entered into by any board, department or agency of the state of Montana, or of any county, city or school district in the state which shall provide for payment of any greater rate of compensation for such professional services than the following percentages of actual cost of construction of such buildings, works or improvements, to wit:

Rate for specialized types.

'A' Rate—Specialized Types: Structures of individual design and detail requiring special skill and prolonged

HeinOnline -- 1965 716 1965

study such as banks, clinics, club buildings, hospitals, libraries, memorials, monuments, museums, and residences:

	Fee	Construction Cost
	8.00% of first	$ 50,000
Plus	7.75% of next	50,000
Plus	7.50% of next	100,000
Plus	7.00% of next	300,000
Plus	6.00% of next	500,000
Plus	5.00% of all additional	

Rate for conventional types.

'B' Rate—Conventional Types: Structures of conventional character such as apartments, administrative buildings, bus and railway depots, churches, gymnasiums, dormitories, fire stations, nurses' homes, office buildings, restaurants, schools, shopping centers, stores and shops and theaters:

	Fee	Construction Cost
	7.50% of first	$ 50,000
Plus	7.25% of next	50,000
Plus	7.00% of next	100,000
Plus	6.50% of next	300,000
Plus	5.50% of next	500,000
Plus	4.50% of all additional	

Rate for utilitarian types.

'C' Rate—Utilitarian Types: Structures of simplest utilitarian character such as airport hangers, armories, field houses, garages, shop maintenance buildings, multiple housing projects, stadiums, warehouses:

	Fee	Construction Cost
	6.50% of first	$ 50,000
Plus	6.25% of next	50,000
Plus	6.00% of next	100,000
Plus	5.50% of next	300,000
Plus	4.50% of next	500,000
Plus	3.50% of all additional	

Seal and signature.

All architectural plans and specifications for such public buildings of the state of Montana, or any agency thereof, or of any county, city, or school district of the state, shall bear the seal and signature of the architect responsible therefor.

Errors and omissions insurance.

All architects shall have an adequate errors and omissions insurance policy when performing any supervisory acts relating to the construction of any public buildings,

HeinOnline -- 1965 717 1965

works or improvements of the state of Montana or any agency thereof, or of any county, city or school district of the state and such insurance shall be in force for three (3) years after the completion of the public buildings, works, or improvements."

Approved March 8, 1965.

CHAPTER 221

An Act to Authorize, in Certain Instances, the Boards of County Commissioners to Levy an Additional Tax of Not to Exceed Ten and One-Half (10½) Mills For the County Poor Funds; Providing For an Effective Date and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Additional levy for county poor fund.

Section 1. Whenever the boards of county commissioners of counties coming within the provisions of this act find that the total amount that may be derived from all other sources will be inadequate to provide the revenue necessary to meet the appropriations for expenditures, to be set forth in the poor fund section of the county budget, such county commissioners shall have the power and the authority to levy, not to exceed ten and one-half (10½) mills, or so much thereof as may be necessary, to meet such expenditures, as an additional levy for the county poor fund after receiving a certificate authorizing them so to do, issued by the state board of equalization as in this act provided.

Certified copy of county poor fund budget required.

Section 2. On or before the second Monday in July, the boards of county commissioners of counties desiring to avail themselves of the provisions of this act shall submit a certified copy of their county poor fund budget to the state examiner and a like certified copy of such budget to the state department of public welfare. The state examiner shall examine such budget and if it is found by the state examiner that such budget is in compliance with the laws of this state and the rules and regulations of such examiner's office, he shall so certify and transmit such certified copy of the budget, together with his certificate thereon, to the state board of equali-

HeinOnline -- 1965 718 1965

zation. The state department of public welfare shall examine such budget and if it finds the expenditures and revenues of the previous year are correct and the estimated expenditures and revenues for the current year are approximately correct, then such department shall transmit such copy, together with its certificates, to the state board of equalization.

State board of equalization to certify levy.

Section 3. The state board of equalization shall, on receipt of the certified copies of such county poor fund budget containing certificates as provided in section 2 hereof, examine such documents and if such board finds that a levy as authorized in section 1, or any part thereof, in addition to all other poor fund revenues is necessary, the said board shall certify the amount of the levy to be made by the county commissioners of such county and transmit such certificates to such board of county commissioners who shall thereupon be authorized to make such levy as is authorized.

Effective dates.

Section 4. This act shall be in full force and effect from the first day of July, 1965, to the thirtieth day of June, 1967.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 8, 1965.

CHAPTER 222

An Act to Amend Section 4-318, of the Revised Codes of Montana of 1947, Relating to Application and Issuance of Beer Wholesalers' Licenses; to Provide That Existing Licensees May Incorporate and Transfer Said License to the New Corporation in Which Said Licensees Hold a Majority of the Stock; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 4-318, of the Revised Codes of Montana of 1947, is amended to read as follows:

Wholesalers' licenses—application for and issuance.

"4-318. **Wholesalers' licenses—application for and issuance—sub-warehouse—imported beer handled through warehouse or sub-warehouse.** Any person desiring to sell

HeinOnline -- 1965 719 1965

and distribute beer as a wholesaler under the provisions of this act shall apply to the board for a license to do so and tender with his application the license fee hereinafter provided for and the board is hereby empowered, authorized and directed to issue one [1] wholesale license for every thirty (30) retail beer licenses figured on the number of retail beer licenses issued in the state to qualified applicants in accordance with the provisions of this act; such license shall be at all times prominently displayed in the place of business of such wholesaler.

Qualifications of licensee—sub-warehouse.

To qualify for a wholesaler's license the applicant shall have been a resident of Montana for a period of five (5) years immediately prior to making application, or if said applicant is a Montana corporation said corporation shall have been organized for a period of five (5) years immediately prior to making application; provided, however, an individual or partnership which has been licensed as a beer wholesaler may, upon incorporation in accordance with the laws of the state of Montana, transfer such license to the corporation if a majority of the capital stock thereof is held by said individual or the members of said partnership; or if applicant is a foreign corporation said corporation shall have been authorized to do business in Montana for a period of five (5) years immediately prior to making application; and said applicant shall have a fixed place of business, sufficient capital, the facilities, storehouse, receiving house or warehouse for the receiving of, storage, handling and moving of beer in large and jobbing quantities for distribution and sale in original packages to other licensed wholesalers or licensed retailers. Each wholesaler shall be entitled to only one (1) wholesale license, which license shall be issued for his principal place of business in Montana; a duplicate license may be issued for one (1) sub-warehouse only in Montana for each wholesale licensee, which said duplicate license shall at all times be prominently displayed at said sub-warehouse; licenses already issued which are in excess of said limitations and which are of issue on the date of the passage and approval of this act, shall be renewable, but no new wholesale beer licenses shall be issued until the number of licenses shall be reduced to within the above limitation.

Wholesaler entitled to one wholesale license for principal place of business and one duplicate for sub-warehouse.

HeinOnline -- 1965 720 1965

All beer manufactured outside of the state of Montana and shipped into Montana shall be consigned to and shipped to a licensed wholesaler, and by him unloaded into his warehouse in Montana or sub-warehouse in Montana; said wholesaler shall distribute said beer from such warehouse or sub-warehouse; said wholesaler shall keep records at his principal place of business of all beer including the name or kind received, on hand, sold and distributed; said records may at all times be inspected by any member or representative of the board; any beer which has been shipped into Montana and has not been shipped to and distributed from a warehouse of a licensed wholesaler shall be seized by any peace officer or representative of the board and may be confiscated in the manner as provided for the confiscation of intoxicating liquor."

Imported beer handled through warehouse or sub-warehouse.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 8, 1965.

CHAPTER 223

An Act to Require That Those Buildings and Facilities, Constructed in the State by the Use of State, County or Municipal Funds, Shall Adhere to the Principles Prescribed by This Act in Order to Make These Buildings and Facilities Accessible to, and Useable by, the Physically Handicapped.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Application of act.** (1) The standards and specifications set forth in this act shall apply to all buildings and facilities used by the public which are constructed in whole or in part by the use of state, county or municipal funds, or the funds of any political subdivision of the state. All such buildings and facilities constructed in this state after the effective date of this act from any one of these funds or any combination thereof shall conform to each of the standards and specifications prescribed herein except where the authority responsible for the proper construction for the particular governmental department, agency or unit concerned shall determine,

Application of act —buildings and facilities used by the public constructed in the state by the use of state, county or municipal funds.

HeinOnline -- 1965 721 1965

after taking all circumstances into consideration, that full compliance with any particular standard or specification is impracticable.

Buildings under construction.

(2) These standards and specifications shall be adhered to in those buildings and facilities under construction on the effective date of this act, unless the authority responsible for the construction shall determine that the construction has reached a state where compliance is impractical. This act shall apply to temporary or emergency construction as well as permanent buildings.

Scope and purpose.

Section 2. **Scope and purpose.** (1) This act is concerned with nonambulatory disabilities, semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of inco-ordination and aging.

(2) It is intended to make all buildings and facilities covered by this act accessible to, and functional for, the physically handicapped to, through, and within their doors, without loss of function, space or facility where the general public is concerned.

Definitions.

Section 3. **Definitions.** For the purposes of this act the following terms shall have the meanings as herein set forth: (1) ''Nonambulatory disabilities'' shall mean impairments that, regardless of cause or manifestation, for all practical purposes, confine individuals to wheel chairs.

"Nonambulatory disabilities."

"Semiambulatory disabilities."

(2) ''Semiabulatory disabilities'' shall mean impairments that cause individuals to walk with difficulty or insecurity. Individuals using braces or crutches, amputees, arthritics, spastics and those with pulmonary and cardiac ills may be semiambulatory.

"Sight disabilities."

(3) ''Sight disabilities'' shall mean total blindness or impairments affecting sight to the extent that the individual functioning in public areas is insecure or exposed to danger.

"Hearing disabilities."

(4) ''Hearing disabilities'' shall mean deafness or hearing handicaps that might make an individual insecure in public areas because he is unable to communicate or hear warning signals.

"Disabilities of incoordination."

(5) ''Disabilities of inco-ordination'' shall mean faulty coordination or palsy from brain, spinal or peripheral nerve injury.

HeinOnline -- 1965 722 1965

(6) "Aging" shall mean those manifestations of the aging processes that significantly reduce mobility, flexibility, coordination and perceptiveness but are not accounted for in the aforementioned categories. "Aging."

(7) "Standard", when this term appears in small letters, shall be descriptive and shall mean typical type. "Standard."

(8) "Fixed turning radius, wheel to wheel" shall mean the tracking of the caster wheels and large wheels of a wheel chair when pivoting on a spot. "Fixed turning radius, wheel to wheel."

(9) "Fixed turning radius, front structure to rear structure" shall mean the turning radius of a wheel chair, left front-foot platform to right rear wheel, or right front-foot platform to left rear wheel when pivoting on a spot. "Fixed turning radius, front structure to rear structure."

(10) "Involved (involvement)" shall mean a portion or portions of the human anatomy or physiology, or both, that have a loss or impairment of normal function as a result of genesis, trauma, disease, inflammation or degeneration. "Involved (involvement)."

(11) "Ramps, ramps with gradients" shall mean ramps with gradients (or ramps with slopes) that deviate from what would otherwise be considered the normal level. An exterior ramp, as distinguished from a "walk," shall be considered an appendage to a building leading to a level above or below existing ground level. As such, a ramp shall meet certain requirements similar to those imposed upon stairs. "Ramps, ramps with gradients."

(12) "Walk, walks" shall mean a predetermined, prepared-surface, exterior pathway leading to or from a building or a facility, or from one exterior area to another, placed on the existing ground level and not deviating from the level of the existing ground immediately adjacent. "Walk, walks."

(13) "Appropriate number" shall mean the number of a specific item that would be reasonably necessary, in accord with the purpose and function of a building or a facility, to accommodate individuals with specific disabilities in proportion to the anticipated number of individuals with disabilities who would use a particular building or facility. "Appropriate number."

Section 4. **Design criteria.** The following design criteria shall be applicable: (1) The collapsible-model Design criteria. Wheel chair.

HeinOnline -- 1965 723 1965

wheel chair of tubular metal construction with plastic upholstery for back and seat is most commonly used. The standard model of all manufacturers falls within the following limits, which are used as the basis of consideration:

(a) Length: 42 inches

(b) Width, when open: 25 inches

(c) Height of seat from floor: 19½ inches

(d) Height of armrest from floor: 29 inches

(e) Height of pusher handles (rear) from floor: 36 inches.

(f) Width, when collapsed: 11 inches

(2) The fixed turning radius of a standard wheel chair, wheel to wheel, is 18 inches. The fixed turning radius, front structure to rear structure, is 31.5 inches.

(3) The average turning space required by a person in a wheel chair (180 to 360 degrees) is 60 x 60 inches. A turning space of 63 x 56 inches may at times prove more workable and desirable.

(4) A minimum width of 60 inches is required for two individuals in wheel chairs to pass each other.

(5) In a wheel chair the average unilateral vertical reach is 60 inches and ranges from 54 inches to 78 inches.

(6) The average horizontal working (table) reach of a person in a wheel chair is 30.8 inches and ranges from 28.5 inches to 33.2 inches.

(7) The bilateral horizontal reach, both arms extended to each side, shoulder high, of a person in a wheel chair, ranges from 54 inches to 71 inches and averages 64.5 inches.

(8) An individual reaching diagonally (from a wheel chair) as would be required in using a wall-mounted dial telephone or towel dispenser, would make the average reach (on the wall) 48 inches from the floor.

Braces, crutches, or canes.

(9) Most individuals ambulating on braces or crutches, or both, or on canes are able to manipulate within the specifications prescribed for wheel chairs, al-

HeinOnline -- 1965 724 1965

though doors present quite a problem at times. However, a crutch tip extending laterally from an individual is not obvious to others in heavily trafficked areas, and not as obvious or protective as a wheel chair and is, therefore, a source of vulnerability.

(10) On the average, individuals 5 feet 6 inches tall require an average of 31 inches between crutch tips in the normally accepted gaits.

(11) On the average, individuals 6 feet 0 inches tall require an average of 32.5 inches between crutch tips in the normally accepted gaits.

Site development —grading.

Section 5. **Site development:** (1) The ground shall be graded, even contrary to existing topography, so that it attains a level with a normal entrance and will make a facility accessible to individuals with physical disabilities.

Public walks.

(2) Public walks shall be at least 48 inches wide and shall have a gradient not greater than 5 per cent. These walks shall be of a continuing common surface, not interrupted by steps or abrupt changes in level. Wherever walks cross other walks, driveways or parking lots they shall blend to a common level. A walk shall have a level platform at the top which is at least 5 feet by 5 feet, if a door swings out onto the platform or toward the walk. This platform shall extend at least 1 foot beyond each side of the doorway. A walk shall have a level platform at least 3 feet deep and 5 feet wide, if the door does not swing onto the platform or toward the walk. This platform shall extend at least 1 foot beyond each side of the doorway.

Parking spaces.

(3) Spaces in parking lots that are accessible to the building or facility shall be set aside and identified for use by individuals with physical disabilities. An adequate parking space is one that is open on one side and which allows room for individuals in wheel chairs or individuals on braces and crutches to get in and out of an automobile onto a level surface, suitable for wheeling and walking. Parking spaces for individuals with physical disabilities when placed between two conventional diagnonal or head-on parking spaces shall be 12 feet wide. Care in planning shall be exercised so that individuals in wheel chairs and individuals using braces and crutches are not

HeinOnline -- 1965 725 1965

compelled to wheel or walk behind parked cars. Consideration shall be given to the distribution of spaces for use by the disabled in accordance with the frequency and regularity of their parking needs. Walks shall be in conformity with section 5 of this act.

Ramps—gradient.

Section 6. **Ramps.** (1) Where ramps with gradients are necessary or desired, they shall conform to the following specifications: A ramp shall not have a slope greater than 1 foot rise in 12 feet, or 8.33 per cent, or 4 degrees 50 minutes. A ramp shall have handrails on at least one side, and preferably two sides, that are 32 inches in height, measured from the surface of the ramp, that are smooth, that extend 1 foot beyond the top and bottom of the ramp, and that as far as practicable conform with American standard safety code for floor and wall openings, and toe boards as promulgated by the American standards association, inc.

Ramp surface.

(2) A ramp shall have a surface that is nonslip. A ramp shall have a level platform at the top which is at least 5 feet by 5 feet, if a door swings out onto the platform or toward the ramp. This platform shall extend at least 1 foot beyond each side of the doorway. A ramp shall have a level platform at least 3 feet deep and 5 feet wide, if the door does not swing onto the platform or toward the ramp. This platform shall extend at least 1 foot beyond each side of the doorway. Each ramp shall have at least 6 feet of straight clearance at the bottom. Ramps shall have level platforms at 30 foot intervals for purposes of rest and safety and shall have level platforms wherever they turn.

Entrances.

Section 7. **Entrances.** At least one primary entrance to each building shall be useable by individuals in wheel chairs. At least one entrance useable by individuals in wheel chairs shall be on a level that would make the elevators accessible.

Doors.

Section 8. **Doors.** Doors shall have a clear opening of no less than 32 inches when open and shall be operable by a single effort. The floor on the inside and outside of each doorway shall be level for a distance of 5 feet from the door in the direction the door swings and shall extend 1 foot beyond each side of the door. Sharp inclines and abrupt changes in level shall be avoided at door-

HeinOnline -- 1965 726 1965

sills. As much as practicable, thresholds shall be flush with the floor.

Stairs.

Section 9. **Stairs.** Stairs shall conform to standards of the American standards association, inc., with the following additional considerations: Steps in stairs shall be designed wherever practicable so as not to have abrupt (square) nosing. Stairs shall have handrails 32 inches high as measured from the tread at the face of the riser. Stairs shall have at least one handrail that extends at least 18 inches beyond the top step and beyond the bottom step. Steps should, wherever possible, and in conformation with existing step formulas, have risers that do not exceed 7 inches.

Floors.

Section 10. **Floors.** Floors shall wherever practicable have a surface that is nonslip. Floors on the same story shall be of a common level throughout or be connected by a ramp in accord with section 6 (1) through the first paragraph of section 6 (2), inclusive.

Toilet rooms —number.

Section 11. **Toilet rooms.** (1) An appropriate number of toilet rooms, in accordance with the nature and use of a specific building or facility, shall be accessible to, and useable by, the physically handicapped.

Space.

(2) Toilet rooms shall have space to allow traffic of individuals in wheel chairs, in accordance with section 4.

Toilet stall.

(3) Toilet rooms shall have at least one toilet stall that:

(a) Is 3 feet wide.

(b) Is at least 4 feet 8 inches, preferably 5 feet deep.

(c) Has a door (where doors are used) that is 32 inches wide and swings out.

(d) Has handrails on each side, 33 inches high and parallel to the floor, 1½ inches in outside diameter, with 1½ inches clearance between rail and wall, and fastened securely at ends and center.

(e) Has a water closet with the seat 20 inches from the floor.

Lavatories.

(4) Toilet rooms shall have lavatories with narrow aprons, which when mounted at standard height are useable by individuals in wheel chairs, or shall have lava-

HeinOnline -- 1965 727 1965

tories mounted higher, when particular designs demand, so that they are useable by individuals in wheel chairs.

Mirrors—shelves.

(5) Mirrors and shelves shall be provided above lavatories at a height as low as practicable and no higher than 40 inches above the floor, measured from the top of the shelf and the bottom of the mirror.

Urinals.

(6) Toilet rooms for men shall have an appropriate number of floor or wall-mounted urinals with the opening of the basin 19 inches from the floor, or shall have floor-mounted urinals that are on level with the main floor of the toilet room.

Towel dispensers.

(7) Toilet rooms shall have an appropriate number of towel racks, towel dispensers, and other dispensers and disposal units mounted no higher than 40 inches from the floor.

Water fountains.

Section 12. **Water fountains.** (1) An appropriate number of water fountains or other water-dispensing means shall be accessible to, and useable by, the physically disabled.

(2) Water fountains or coolers shall have up-front spouts and controls. Water fountains or coolers shall be hand-operated or hand and foot-operated.

Public telephones.

Section 13. **Public telephones.** (1) An appropriate number of public telephones shall be made accessible to, and useable by, the physically disabled.

(2) Such telephones shall be placed so that the dial and the hand-set can be reached by individuals in wheel chairs.

Elevators.

Section 14. **Elevators.** Elevators shall be provided and shall be accessible to, and useable by, the physically disabled at all levels normally used by the general public. Elevator control buttons shall have identifying features for the benefit of the blind. Elevators shall allow for traffic by wheel chairs.

Switches and controls.

Section 15. **Switches and controls.** Switches and controls for light, heat, ventilation, windows, draperies, fire alarms and all similar controls of frequent or essential use, shall be placed within the reach of individuals in wheel chairs.

Identification for the blind.

Section 16 **Identification for the blind.** Appropriate identification of specific facilities within a building used

HeinOnline -- 1965 728 1965

by the public is essential to the blind. Raised or recessed letters or numbers shall be used to identify rooms and offices. Such identification shall be placed on the wall, to the right or left of the door, at a height between 4 feet 6 inches and 5 feet 6 inches, measured from the floor, and preferably at 5 feet. Doors that are not intended for normal use, and that are dangerous if a blind person were to exit or enter by them, shall be made quickly identifiable to the touch by knurling the door handle or knob.

Warning signals.

Section 17. **Warning signals.** (1) Audible warning signals shall be accompanied by simultaneous visual signals for the benefit of those with hearing disabilities.

(2) Visual signals shall be accompanied by simultaneous audible signals for the benefit of the blind.

Hazards.

Section 18. **Hazards.** (1) Every effort shall be exercised to obviate hazards to individuals with physical disabilities.

(2) Access panels or manholes in floors, walks and walls can be extremely hazardous, particularly when in use, and shall be avoided where possible.

(3) When manholes or access panels are open and in use, or when an open excavation exists on a site, particularly when it is approximate to normal pedestrian traffic, barricades shall be placed on all open sides, at least 8 feet from the hazard, and warning devices shall be installed in accord with the provisions of subsection (2) of this section.

(4) Low-hanging door closers that are within the opening of a doorway when the door is open, or that protrude hazardously into regular corridors or traffic ways when the door is closed, shall be avoided.

(5) Low-hanging signs, ceiling lights and similar objects or signs and fixtures that protrude into regular corridors or traffic ways shall be avoided. A minimum height of 7 feet, measured from the floor, shall be had.

(6) Lighting on ramps shall be at least equal to that prescribed by the specifications of American standards association, inc. Exit signs shall be in accordance with specifications of American standards association, inc., except as modified by section 7 of this act.

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Responsibility for enforcement.

Section 19. **Responsibility for enforcement.** The responsibility for enforcement of this act shall be as follows: (1) Where state school funds are utilized—state superintendent of public instruction.

(2) Where state funds are utilized—state controller.

(3) Where funds of counties, municipalities or other political subdivisions are utilized—by the governing bodies thereof.

Approved March 8, 1965.

CHAPTER 224

An Act to Amend Section 53-618 to Eliminate Reference to Section 53-114 and Substitute Therefor a Reference to Section 53-615.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 53-618, R. C. M. 1947, is amended to read as follows:

Time for payment of fees—half fees after July 1st.

"53-618. **Time for payment of fees—half fee after July first.** Residents of the state of Montana, or nonresidents, who own trucks, trailers or semitrailers, buses and operate the same upon the highways of the state of Montana shall at the time they make application *for their Montana license as provided for under section 53-615,* pay the fees herein prescribed; provided that said residents or nonresidents who make application for a license after the first day of July of any year shall pay one-half (½) of the fees provided for herein."

Approved March 8, 1965.

CHAPTER 225

An Act to Amend Section 32-1127, R. C. M. 1947, as Amended by Section 5, Chapter 243, Laws of 1961 by Providing For a Permit Description of the Powered or Towing Vehicle in Place of the Permit Description of the Vehicle or Load to Be Operated or Moved.

HeinOnline -- 1965 730 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 32-1127, R. C. M. 1947, as amended by section 5, chapter 243, laws of 1961 is amended to read as follows:

Amending clause.

"32-1127. (1751.6) **Permits for excess size and weight.** The state highway commission, and local authorities in their respective jurisdiction, may, in their discretion, upon application in writing and good cause being shown therefor, issue a special permit in writing, authorizing the applicant to operate or move a vehicle of a size or weight exceeding the maximum specified in this act upon any highway under the jurisdiction of and for the maintenance of which the body granting the permit is responsible; provided, however, that only the state highway commission shall have the discretion to issue permits for movement of vehicles carrying built-up or reducible loads in excess of nine (9) feet in width or exceeding the length, height, or weight specified in this act said permit shall be issued in the public interest; provided, however, that any carrier receiving this permit must have public liability and property damage insurance for the protection of the traveling public as a whole. No permit shall be issued for a period of more than nine (9) months.

Special permits for excess size and weight may be obtained.

The applicant for any special permit shall specifically describe the powered vehicle or towing vehicle and generally describe the type of vehicle or load to be operated or moved and the particular state highways over which the vehicle or load is to be moved and whether such permit is required for a single trip or for continuous operation. All fees collected under this act shall be forwarded to the state treasurer for deposit in the state highway general fund.

(a) **Special Permits—Discretion of Issuer—Conditions.** The state highway commission or local authority is authorized to issue or withhold such special permit at its discretion, or, if such permit is issued, to limit the number of trips, or to establish seasonal or other time limitations within which the vehicle described may be operated on the public highways indicated, or otherwise to limit or prescribe conditions of operation of such vehicle or vehicles when necessary to assure against damage to the road foundation, surfaces or structures or safety of traffic and may require such undertaking or

Discretionary authority.

HeinOnline -- 1965 731 1965

other security as may be deemed necessary to compensate for injury to any roadway or road structure.

Fees.

(b) **Special Permits—Fees.** The following fees, in addition to the regular license and gross vehicle weight fees, shall be paid for all movements under special permits on the public highways under the jurisdiction of the state highway commission:

Three dollars ($3.00) for each permit issued in excess of the size and weight specified in this act; provided, however, that term or blanket permits shall not be issued for overwidth loads in excess of fifteen (15) feet, overlength loads in excess of seventy (70) feet, and overheight loads in excess of a limit determined by the state highway commission. Loads in excess of these dimensions will be limited to trip permits.

In addition to the three dollar ($3.00) fee specified herein for overweight permits, there shall be charged for single trip permits: five dollars ($5.00) for distances to and including one hundred (100) miles; fifteen dollars ($15.00) for distances from one hundred one (101) to one hundred ninety-nine (199) miles; and twenty-five dollars ($25.00) for distances over two hundred (200) miles traveled, for such excess load over the gross allowable load specified in this section or the sum of the excess axle loads, whichever is greater.

Penalty.

(c) **Special Permits—Misrepresentations and Violations—Penalty—Display of Permit.** Any person who knowingly and willfully misrepresents the size or weight of any load in obtaining a special permit or does not follow the requirements and conditions of the special permit or who operates any vehicle, the gross weight of which is in excess of the maximum for which such vehicle may be eligible for license, without first obtaining a special permit, is guilty of a misdemeanor.

Display of special permit.

Every special permit issued hereunder shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any peace officer, officer of the Montana highway patrol, or employees of the state highway commission.

Confiscation for violation.

A peace officer, officer of the Montana highway patrol, or employees of the state highway commission who shall find any person operating a vehicle in violation of the

HeinOnline -- 1965 732 1965

conditions of a special permit issued hereunder may confiscate such permit and forward the same to the state highway commission which may return it to the permittee or revoke, cancel, or suspend it without refund. The state highway commission shall keep a record of all action taken upon permits so confiscated and if a permit shall be returned to the permittee, the action taken by the commission shall be endorsed thereon. Any permittee whose permit is suspended or revoked may, upon request, receive a hearing before the commission or person designated by the commission. The commission, after such hearing, may reinstate any permit or revise its previous action."

Repealing clause.

Section 2. This act shall take effect and be in full force from and after its passage and approval.

Approved March 8, 1965.

CHAPTER 226

An Act to Provide for Driver Education; Prescribing Certain Penalty Assessments and Driver's License Fees for the Financing Thereof; Creating an Automobile Driver Education Account in the Earmarked Revenue Fund; Providing for the Duties of the Superintendent of Public Instruction; Providing for the Reimbursement to School Districts and County High Schools Qualifying Under This Act; Amending Section 31-114, R. C. M. 1947; Amending Section 1, Chapter 149, Laws of 1961, Compiled as Section 94-801.2, R. C. M. 1947; Amending Section 32-1131, R. C. M. 1947; and Providing a Severability Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Driver education course.

Section 1. It is the purpose of this act to provide the financial assistance necessary to enable the board of trustees of any county high school or any district maintaining a secondary school which includes grades ten (10) to twelve (12) inclusive to offer a course in driver education and by that means to develop in the youth of this state a knowledge of the motor vehicle laws, an acceptance of personal responsibility on the public highways, and an understanding of the causes and consequences of

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traffic accidents. The course in driver education shall further provide to the youthful drivers of this state training in the skills necessary for the safe operation of motor vehicles.

Section 2. The following words and phrases whenever used in this act shall have the following meaning:

"Superintendent" or "state superintendent."

(1) "Superintendent" or "state superintendent" shall mean the superintendent of public instruction.

"Driver education course."

(2) "Driver education course" shall mean an accredited course of instruction in driver education which shall meet basic course requirements established by the superintendent of public instruction and each part of said course, both classroom instruction, and behind-the-wheel instruction, shall be taught by a qualified teacher of driver education.

When taught.

Any or all portions of the course may be taught after regular school hours or on Saturdays as well as on regular school days or as a summer school course, at the option of the local board of trustees. High schools may cooperate in the presentation of such a course.

"Qualified teacher of driver education."

(3) "Qualified teacher of driver education" shall mean an instructor certified by the superintendent of public instruction to teach either the classroom part or the behind-the-wheel part of the driver education course, or both, under regulations promulgated by the state superintendent.

Administration of program.

Section 3. (1) The superintendent of public instruction shall administer, supervise and develop the driver education program and shall assist local districts in the conduct of their driver education program.

(2) The board of trustees of any county high school or any district maintaining a secondary school which includes grades ten (10) to twelve (12) inclusive, may establish and maintain a driver education course for pupils enrolled in the secondary schools in the district or county high schools.

Automobile driver education account.

Penalty assessment.

Section 4. (1) There is hereby established an automobile driver education account in the earmarked revenue fund. There shall be levied and paid into this account a penalty assessment, in addition to the fines or bail forfeitures, on all offenses involving a violation of a state

HeinOnline -- 1965 734 1965

statute or a city ordinance relating to the operation or use of motor vehicles, except offenses relating to parking of vehicles, in the following amounts:

(a) Where a fine is imposed, two dollars ($2) for each twenty dollars ($20) of fine, or fraction thereof.

(b) If bail is forfeited, two dollars ($2) for each twenty dollars ($20) of bail, or fraction thereof.

(c) Where multiple offenses are involved, the penalty assessment shall be based on the total fine or bail forfeited for all offenses.

Where a fine is suspended, in whole or in part, the penalty assessment shall be levied in accordance with the fine actually imposed.

5% of driver's license fee.

(2) The state of Montana shall annually contribute to the account five per cent (5%) of all moneys received by the state of Montana from the collection of the motor vehicle driver's license fee provided for under the laws of the state of Montana. It shall be paid to the state treasurer of Montana and credited to the automobile driver education account in the earmarked revenue fund.

Deposit of bail.

Section 5. When any deposit of bail is made for an offense to which section 4 applies, the person making the deposit shall also deposit a sufficient amount to include the penalty assessment for forfeited bail.

Disposition.

Section 6. The gross proceeds of the penalty assessments provided for in section 4 shall be transmittd to the city or county treasurer, as the case may be, by the court collecting the same, in the manner and at the times that fines and bail forfeitures are transmitted to such treasurers under law. The city and county treasurers shall transmit to the state treasurer monthly, and without deduction, the amount of such penalty assessments received, which shall be credited to the driver education account in the earmarked revenue fund.

Transmittal to state treasurer

Section 7. When a court is required under law to transmit fees, fines and forfeitures directly to the state treasurer of Montana, the gross proceeds of the penalty assessments shall likewise be so transmitted, and credited to the driver education account in the earmarked revenue fund by the state treasurer.

HeinOnline -- 1965 735 1965

Disbursement.

Section 8. All moneys in the automobile driver education account shall be disbursed annually by the superintendent of public instruction to school districts and county high schools providing driver education in accordance with the standards prescribed for such program and in accordance with such rules and regulations as may be promulgated by the superintendent of public instruction for the administration of this act; provided that reimbursements to schools shall be based on the number of pupils successfully completing the driver education program including both classroom instruction and practice driving (behind-the-wheel-driving).

Before such fund is allocated to the qualifying schools there shall be deducted therefrom such amount as may be necessary for the administration of this act including development, printing and distribution of essential materials, preparation of teachers qualified in driver education, supervision of the program, and any and all other purposes deemed necessary by the superintendent of public instruction, such amount not to exceed twelve thousand dollars ($12,000) during the first year this act is in effect and not to exceed twelve thousand dollars ($12,000) annually thereafter. Such state reimbursement for driver education shall be deposited by the county treasurer to the credit of the school district or county high school in a special non-budgeted fund as provided in section 75-3722, R. C. M. 1947, and may be expended for the purposes provided by this act.

Statement of penalty assessment.

Section 9. All courts handling offenses where there shall be levied and paid a penalty assessment as provided in section 4 of this act, and all city, town and county treasurers, shall furnish to the state superintendent statements of all penalty assessments levied and paid and records of cases which involve such offenses as the state superintendent may request.

Amending clause.

Section 10. Section 31-114, R. C. M. 1947, is amended to read as follows:

Disposition of fees, fines and forfeitures.

"31-114. **Fees—fines and forfeitures.** All fees, fines and forfeitures collected in any court from persons apprehended or arrested by patrolmen for violation of this act and the laws and regulations relating to the use of state highways and the operation of vehicles thereon must be paid to the state treasurer of Montana and by him

HeinOnline -- 1965 736 1965

credited to the general fund of the state, *except the penalty assessments levied and paid as provided for in section 4 of this act, which shall be paid into the automobile driver education account in the earmarked revenue fund*; and at the time of payment of any such fee, fine or forfeiture there shall be filed with the state treasurer a complete statement showing the total of the fees, fines or forfeitures received or incurred, which statement shall give the title of the court and cause and be subscribed to by the person of officer making such payments." Exception.

Section 11. Section 1, chapter 149, laws of 1961, compiled as section 94-801.2, R. C. M. 1947, is amended to read as follows: Amending clause.

"94-801.2. **Traffic fines collected from juvenile offenders—disposition.** All fines collected by the district courts from children under eighteen (18) years of age, for unlawful operation of motor vehicles resulting from traffic summonses issued by the peace officers of the cities, counties, or by highway patrolmen, *together with all penalty assessments levied and paid as provided for in section 4 of this act,* shall be retained by the county treasurer of the county in which the offense occurred and at the end of each month distributed as follows: Disposition of fines collected from minor drivers.

(a) Fines collected as the result of summonses issued by city police officers shall be distributed to the city in which the police officer is employed, and credited to the city general fund; City general fund.

(b) Fines collected as the result of summonses issued by county peace officers shall be retained by the county treasurer and credited to the county road fund; County road fund.

(c) Fines collected as the result of summonses issued by state highway patrolmen shall be paid to the state treasurer of Montana and by him credited to the general fund of the state; State general fund.

(d) All penalty assessments levied and paid as provided for in section 4 of this act shall be paid to the state treasurer of Montana and by him credited to the automobile driver education account in the earmarked revenue fund." Automobile driver education account.

Section 12. Section 32-1131, R. C. M. 1947, is amended to read as follows: Amending clause.

HeinOnline -- 1965 737 1965

Disposition of fines.

"32-1131. **Disposition of fines.** Any and all fines collected for the violation of any of the provisions of this act shall belong to the general road fund of the county, and shall, immediately after their collection, be paid over by the court or magistrate collecting the same to the county treasurer for the use and benefit of that fund, *except the penalty assessments levied and paid as provided for in section 4 of this act, which the county treasurer shall transmit to the state treasurer of Montana and by him credited to the automobile driver educaion account in the earmarked revenue fund.*"

Exception.

Severability clause.

Section 13. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Effective immediately.

Section 14. This bill is effective on its passage and approval.

Approved March 8, 1965.

CHAPTER 227

An Act Concerning the Age at Which an Operators License May Be Issued; Amending Section 31-127, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 31-127, R. C. M. 1947, is amended to read as follows:

License not issued to whom—exceptions.

"31-127. The board shall not issue any license hereunder:

1. To any person, as an operator, who is under the age of *sixteen (16)* years, *with these exceptions:*

Person passing driver's education course.

(a) The board may issue an operator's license to a person who is fifteen (15) years if he has passed a driver's education course approved by the Montana highway patrol and the superintendent of public instruction.

Restricted license.

(b) The board may issue a restricted license as hereinafter provided to any person who is at least thirteen (13) years of age;

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Chauffeur's license.

2. To any person, as a chauffeur, employed by another for the principal purpose of driving a motor vehicle when in use exclusively for the transportation of property for compensation, who is under the age of eighteen (18) years, nor to any person, as a chauffeur, who is employed by another for the principal purpose of driving a motor vehicle transporting passengers for hire or transporting school children, who is under the age of twenty-one (21) years;

Person whose license suspended or revoked.

3. To any person, as an operator or chauffeur, whose license has been suspended during such suspension, nor to any person whose license has been revoked, except as provided in section 31-149;

Drunkard or drug addict.

4. To any person, as an operator or chauffeur, who is an habitual drunkard, or is addicted to the use of narcotic drugs;

Mental disability.

5. To any person, as an operator or chauffeur, who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law;

Examination.

6. To any person, as an operator or chauffeur, who is required by this act to take an examination, unless such person shall have successfully passed such examination;

Financial responsibility.

7. To any person who is required under the provisions of the motor vehicle financial responsibility laws of this state to deposit proof of financial responsibility and who has not deposited such proof;

Epileptic.

8. To any person as an operator or chauffeur, who is suffering from any form of epileptic type seizures or similar disorders characterized by lapse of consciousness or control, either temporary or prolonged, which is or may become chronic: provided that the board may in its discretion issue a license to a person suffering from epileptic type seizures or similar disorder characterized by lapse of consciousness or control, if otherwise qualified to be licensed to drive a motor vehicle, when the afflicted person can show that he has not experienced an epileptic type seizure or similar disorder characterized by lapse of consciousness or control for a period of two (2) years and when recommended by the state health officer as being controlled medically or otherwise to the degree that the

HeinOnline -- 1965 739 1965

affliction will not interfere with the safe operation of a motor vehicle."

Approved March 8, 1965.

CHAPTER 228

An Act Making the Transcription or Recording of Human Conversation Without the Knowledge of the Parties Thereto a Misdemeanor; and Excepting Public Officials and Employees When in the Performance of Official Duty; and Persons Speaking at Public Meetings or Given Warning of Any Such Recording.

Be it enacted by the Legislative Assembly of the State of Montana:

Unlawful to record conversation without knowledge of parties.

Section 1. It shall be unlawful to record or cause to be recorded by use of any hidden electronic or mechanical device which reproduces a human conversation without the knowledge of all parties to the conversation. Violation hereof shall constitute a misdemeanor.

Exclusions.

Section 2. Section 1 of this act shall not apply to duly elected or appointed public officials or employees when such transcription or recording is done in the performance of official duty; and persons speaking at public meetings or given warning of such recording.

Approved March 8, 1965.

CHAPTER 229

An Act to Preserve Game Animals and Protect Private Property by Requiring That Nonresident Hunters be Accompanied by a Licensed Resident, and Making Any Violation a Misdemeanor.

Be it enacted by the Legislative Assembly of the State of Montana:

Protect and preserve game animals primarily for citizens of state.

Section 1. It shall be the policy of this state to protect and preserve game animals primarily for the citizens of this state and to avoid the deliberate waste of wildlife and destruction of property by nonresidents licensed to hunt in this state.

HeinOnline -- 1965 740 1965

Nonresident hunter to be accompanied by licensed resident.

Section 2. It shall be unlawful for any nonresident to hunt big game animals in this state unless he is accompanied by a resident licensed to hunt game animals, provided that a nonresident need not be accompanied when hunting in special deer or antelope areas as designated by the state fish and game commission.

Permission.

Section 3. Every resident and nonresident must have obtained permission of the landowner, lessee or their agents before hunting big game animals on private property.

Violation.

Section 4. Any person violating any provision of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 26-324.

Approved March 8, 1965.

CHAPTER 230

An Act Amending Sections 94-3604, 94-3605 and 94-3606, R. C. M. 1947, as Amended Regarding the Seizure and Destruction of Obscene Matter.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 94-3604, R. C. M. 1947, is amended to read as follows:

Seizure of obscene matter.

"94-3604. (11137) **Seizure of indecent articles authorized.** Every person who is authorized or enjoined to arrest any person for a violation of *section 94-3601 (2) or (3),* is equally authorized and enjoined to seize any obscene *matter* found in possession, or under the control of the person so arrested, and to deliver the some to the *district court.*"

Amending clause.

Section 2. Section 94-3605, R. C. M. 1947, is amended to read as follows:

Summary determination of probable cause for seizure.

"94-3605 (11138) **Their character to be summarily determined.** *If the seizure be controverted,* the *district court* to whom any obscene *matter* is delivered pursuant to the foregoing section *or to the return of a search warrant* must, *within ten (10) days after service of the motion for restoration proceed to take testimony in relation thereto.*

HeinOnline -- 1965 741 1965

A decision as to whether there is a probable cause to believe the seized material to be obscene shall be rendered by the court within two (2) days of the conclusion of the restoration proceedings."

Amending clause.

Section 3. Section 94-3606, R. C. M. 1947, is amended to read as follows:

Destruction.

"94-3606. (11139) **Their destruction.** Upon the conviction of the accused, such county attorney must cause any *obscene matter,* in respect whereof the accused stands convicted and which remains in the possession or under the control of such county attorney, to be destroyed."

Approved March 8, 1965.

CHAPTER 231

An Act to Amend Section 82-3319, R. C. M. 1947, to Provide that the State Controller Shall Appoint Any Architect or Consulting Engineer for Work on Any State Buildings to Be Constructed, Remodeled or Renovated, Subject to Approval by the State Board of Examiners, and Containing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 82-3319, R. C. M. 1947, be amended to read as follows:

Appointment of architects and engineers.

"82-3319. **Appointment of architects and consulting engineers.** The *state controller* shall appoint any architect or consulting engineer retained for work on *any* building *to be constructed, remodeled or renovated by the state of Montana, its boards, institutions and agencies. Such appointment shall be subject to the approval of the state board of examiners."*

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 8, 1965.

CHAPTER 232

An Act to Describe, Define, and Officially Adopt a System of Coordinates For Designating and Stating the

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Positions of Points on the Surface of the Earth Within Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

"Montana Coordinate System."

Section 1. The system of plane coordinates which has been established by the United States Coast and Geodetic Survey for defining and stating the positions or locations of points on the surface of the earth within the State of Montana is hereafter to be known and designated as the "Montana Coordinate System".

"North Zone," "Central Zone," and "South Zone."

For the purpose of the use of this system the State is divided into a "North Zone", and "Central Zone", and a "South Zone".

Zones to include.

The area now included in the following counties shall constitute the North Zone: Blaine, Chouteau, Daniels, Flathead, Glacier, Hill, Liberty, Lincoln, McCone, Phillips, Pondera, Roosevelt, Sheridan, Teton, Toole, and Valley.

The area now included in the following counties shall constitute the Central Zone: Cascade, Dawson, Fergus, Garfield, Judith Basin, Lake, Lewis and Clark, Meagher, Mineral, Missoula, Petroleum, Powell, Prairie, Richland, Sanders, and Wibaux.

The area now included in the following counties shall constitute the South Zone: Beaverhead, Big Horn, Broadwater, Carbon, Carter, Custer, Deer Lodge, Fallon, Gallatin, Golden Valley, Granite, Jefferson, Madison, Musselshell, Park, Powder River, Ravalli, Rosebud, Silver Bow, Stillwater, Sweet Grass, Treasure, Wheatland, and Yellowstone.

Land description.

Section 2. As established for use in the North Zone, the Montana Coordinate System shall be named, and in any land description in which it is used it shall be designated, the "Montana Coordinate System, North Zone".

As established for use in the Central Zone, the Montana Coordinate System shall be named, and in any land description in which it is used it shall be designated, the "Montana Coordinate System, Central Zone".

As established for use in the South Zone, the Montana Coordinate System shall be named, and in any land description in which it is used it shall be designated, the "Montana Coordinate System, South Zone".

HeinOnline -- 1965 743 1965

X and Y coordinates.

Section 3. The plane coordinates of a point on the earth's surface, to be used in expressing the position or location of such point in the appropriate zone of this system, shall consist of two distances, expressed in feet and decimals of a foot. One of these distances, to be known as the "x-coordinate", shall give the position in an east-and-west direction; the other, to be known as the "y-coordinate", shall give the position in a north-and-south direction. These coordinates shall be made to depend upon and conform to the coordinates, on the Montana Coordinate System, of the triangulation and traverse stations of the United States Coast and Geodetic Survey within the State of Montana, as those coordinates have been determined by the said Survey.

Description of tract lying in two zones.

Section 4. When any tract of land to be defined by a single description extends from one into another of the above coordinate zones, the positions of all points on its boundaries may be referred to either of such zones, the zone which is used being specifically named in the description.

Adoption of U.S. Coast and Geodetic Survey description.

Section 5. (a) For purposes of more precisely defining the Montana Coordinate System, the following description by the United States Coast and Geodetic Survery is adopted:

The Montana Coordinate System, North Zone, is a Lambert conformal projection of the Clarke Spheroid of 1866, having standard parallels at north latitudes 47° 51′ and 48° 43′, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 109° 30′ west of Greenwich and the parallel 47° 00′ north latitude. This origin is given the coordinates: x = 2,000,000 feet and y = 0 feet.

The Montana Coordinate System, Central Zone, is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes 46° 27′ and 47° 53′, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 109° 30′ west of Greenwich and the parallel 45° 50′ north latitude. This origin is given the coordinates: x = 2,000,000 feet and y = 0 feet.

The Montana Coordinate System, South Zone, is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes 44°

HeinOnline -- 1965 744 1965

52′ and 46° 24′, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian 109° 30′ west of Greenwich and the parallel 47° 00′ north latitude. This origin is given the coordinates: x = 2,000,000 feet and y = 0 feet.

Marking of Montana coordinate system on ground.

(b) The position of the Montana Coordinate System shall be as marked on the ground by triangulation or traverse stations established in conformity with the standards adopted by the United States Coast and Geodetic Survey for first-order and second-order work, whose positions have been rigidly adjusted on the North American datum of 1927, and whose coordinates have been computed on the system herein defined. Any such station may be used for establishing a survey connection with the Montana Coordinate System.

Distance limitation for recording in land records.

Section 6. No coordinates based on the Montana Coordinate System, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public land records or deed records unless such point is within one-half mile of a triangulation or traverse station established in conformity with the standards prescribed in Section 5 of this act; provided that said one-half mile limitation may be modified by a duly authorized State agency to meet local conditions.

Use of term.

Section 7. The use of the term "Montana Coordinate System" on a map, report of survey, or other document, shall be limited to coordinates based on the Montana Coordinate System as defined in this act.

Description by coordinates supplemental—when.

Section 8. Whenever coordinates based on the Montana Coordinate System are used to describe any tract of land which in the same document is also described by reference to any subdivision, line, or corner of the United States public land surveys, the description by coordinates shall be construed as supplemental to the basic description of such subdivision, line or corner contained in the official plats and field notes filed of record, and in the event of any conflict the description by reference to the subdivision, line or corner of the United States public land surveys shall prevail over the description by coordinates.

HeinOnline -- 1965 745 1965

Purchaser of mortgage not required to depend upon Montana coordinate system.

Section 9. Nothing contained in this act shall require any purchaser or mortgagee to rely on a description, any part of which depends exclusively upon the Montana Coordinate System.

Severability clause.

Section 10. If any provision of this act shall be declared invalid, such invalidity shall not affect any other portion of this act which can be given effect without the invalid portion, and to this end the provisions of the act are declared to be severable.

Approved March 8, 1965.

CHAPTER 233

An Act to Amend Section 68-501 of the Revised Codes of Montana, 1947, Paragraph (F), Relating to the Public Employees' Retirement System, Credit Allowance For Service Performed in National Defense; Repealing All Acts or Parts of Acts in Conflict Herewith; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 68-501, Paragraph (F) of the Revised Codes of Montana, 1947, be amended to read as follows:

Board of administration—qualifications—terms—compensation.

"68-501. **Board of administration.** The board of administration shall consist of five (5) members appointed by the governor, three (3) of which members shall be public employees and shall be members of the retirement system, and two (2) of which shall be members at large. Terms of office shall be for five (5) years provided, however, that those first appointed after this act takes effect shall be for terms, respectively, of one (1), two (2), three (3), four (4), and five (5) years but their successors shall hold office for terms of five (5) years; provided not more than one (1) employee member of the retirement board shall be an employee of the same department, bureau or agency of the state or contracting public agency. Members of the board shall be paid their actual and necessary expenses and those members of the board who are not members of the public employees' retirement system shall be entitled to receive in addition to

HeinOnline -- 1965 746 1965

actual and necessary expenses compensation at the rate of ten dollars ($10.00) per day.

Legal counsel.

The attorney general is hereby designated legal counsel for the board.

Vacancy.

(a) **Vacancy on board—how filled.** Any vacancy occurring ninety (90) days or more before the expiration of the term of any member of the retirement board shall be filled by appointment by the governor. The person thus appointed shall serve for the remainder of the unexpired term.

Rules and regulations—officers.

(b) The board may establish such rules and regulations as it deems proper, within the limitations of this act and for its proper administration, operation and enforcement. The board shall elect one (1) of its members president, and shall appoint and fix the compensation of a secretary who shall have the power to administer oaths, and other necessary employees. It shall maintain its office in the city of Helena. A quorum of the board shall be three (3) members. The board may appoint a committee of one or more of its members, which shall have authority to perform routine acts, such as retirement of members and fixing of retirement allowances, approval of death claims and correction of records necessary in the administration of the system in accordance with the provisions of this act and rules and regulations of the board. All expenses of the administration of this act in excess of amount provided by the one dollar ($1.00) membership fee shall be a charge on the appropriation made from the general fund of the state.

Quorum—authority.

Expenses of administration.

Employees—benefits—report to governor.

(c) The board shall determine who are employees within the meaning of this act and shall be the sole authority and judge under this act as to the conditions under which persons may be admitted to and continue to receive benefits under the retirement system, and shall have exclusive control of the administration and investment of the fund. As soon as practical after the close of each fiscal year, the board shall file with the governor a report of its work for such fiscal year.

Service and disability allowances.

(d) Subject to the following and to all other provisions of this act, and such rules and regulations as it may adopt in pursuance thereof, the board shall determine and may modify allowances for service and disability.

HeinOnline -- 1965 747 1965

Determination of year at service—part-time credit.

(e) The board of administration shall fix and determine how much service rendered in any fiscal year shall be the equivalent of a year of service and parts thereof, but shall credit one (1) year for two hundred and fifty (250) or more days of service rendered by employees on a per diem basis and one (1) year for ten (10) months or more of service rendered by employees on a monthly basis, but not more than one (1) year for all service in any fiscal year. In determining the credit to be granted for service rendered on a part-time basis, for purposes of calculating retirement allowances, the service shall be reduced to a full-time basis according to the service required, in the next preceding sentence, for credit for one (1) year of service. In calculating benefits based on service so determined, except in calculating the additional pension provided in subdivision (g) of section 68-901 compensation earnable shall be taken as the compensation which would be earnable if the employment had been on a full-time basis, and with a compensation derived by multiplying the member's compensation by ratio of full time to the time he was required by his employment to engage in his duties. In calculating the credit to be granted for service rendered on a part-time basis, for purposes of determining qualifications for retirement, and of calculating benefits payable upon death before retirement, the service required in this paragraph for credit for a year of service shall not be used, but instead, a year of service shall be credited for each year during which the member was employed throughout the year on a part-time basis and was engaged in his duties the full amount of time he was required by his employment to be so engaged. Credit for fractional years will be granted to the extent of the fraction derived by dividing the time during which the member was engaged in his duties within the year, by the time he was required by his employment to be so engaged.

Time absent without compensation—reason.

(f) Time during which a member is absent from public service without compensation shall not be allowed in computing service; except that time during which a member is absent from public service by reason of having been ordered on duty with the armed forces of the United States, or by reason of voluntary service by the member in said forces or on ships operated by or for the United States government, *or by members assigned directly to the*

HeinOnline -- 1965 748 1965

Department of War or Defense for duties pursuant to the national defense efforts, having been granted a leave of absence by the agency, department of state, county or city under which said member is employed for such purpose, either during a war involving the United States as a belligerent or in any other national emergency, and for ninety (90) days thereafter shall be considered as time spent in public service, for the purpose of qualification for retirement and death benefits, but not for calculation of retirement benefits unless the member elects to contribute and contributes under the retirement system. Any member so absent and until his return within the said ninety (90) days may resign from the system. Any member so absent shall have the right to contribute to said system, either during his service with the armed forces of the United States or in the merchant marine of the United States, and ninety (90) days thereafter or upon his return to the state service, at times and in a manner fixed by the board of administration, amounts equal to the contribution which would have been made by him to the system on the basis of his compensation earnable at the commencement of his absence. If he does so contribute he shall receive credit for public service for such time in the same manner as if he had not been absent from public service. Whenever a member elects to continue his contributions, the state or the contracting city, or county or other agency shall thereupon contribute an amount equal to that which it would have contributed under section 68-1307 or under the contract between the board and the legislative body, as the case may be, if the member had not been absent from state service.

Resignation.

Credit for public service.

Any member so absent or any member absent from state service by reason of having been ordered by an authorized official of the state of Montana or the United States, to duties outside state service shall be paid upon his request, his accumulated contributions. Such payment shall terminate any election by said member under this section to contribute.

Member ordered to duties outside state.

Time during which a member is absent from public service by reason of injury or illness determined within one (1) year after the end of such absence as arising out of and in the course of his employment, shall be considered as spent in public service, for the purpose of qualification for retirement and death benefits, but not

Absent by reason of injury or illness.

HeinOnline -- 1965 749 1965

for the calculation of retirement benefits, except as he received compensation, as defined in this act and as distinguished from disability indemnity under the Workmen's Compensation Act during the absence, and then only to the extent of compensation received.

Filing of information.

(g) Each employee shall file with the board of administration such information affecting his status as a member of the retirement system as the board may require.

Credit for prior service.

(h) Credit for prior service shall be granted to each person other than persons who are employees of the university or of a contracting city at the time of becoming members of the retirement system, who has rendered such service as defined in this act, and who has become a member of the retirement system on January 1, 1946, or within three (3) years after last rendering prior service. Credit for prior service shall be granted to each person who is employed by the university at the time of becoming a member of the retirement system regardless of whether he had been retired under the system prior to the effective date hereof, who has rendered such service as defined in this act, and who has become a member of the retirement system on January 1, 1946, or within three (3) years after last rendering prior service.

Credit for prior service shall be granted to each person who is employed by a contracting city at the time of becoming a member of the system, who has rendered such service as defined in this act, and who has become a member of the retirement system within three (3) years after last rendering prior service. Notwithstanding the three (3) sentences next preceding, credit for prior service shall be granted to each person employed by the state including the university, who became a member while employed on a part-time basis, because of amendments to this retirement act, or who became a member prior to said amendments, because of a change in status to a full-time basis. The credit for prior service to be granted persons employed by a contracting city who are included under the retirement system shall be established by contract between the board and the legislative body of such city; and such credit as may be granted to a person shall be in the form of a percentage, not to exceed the analogous percentage applicable to employees of the state,

HeinOnline -- 1965 750 1965

for each year of prior service. Prior service so credited shall be the basis for a retirement allowance or benefit as provided in this act only if the membership in the retirement system continues unbroken until retirement or retirement allowance or until the granting of such other benefit; provided, that termination of membership by withdrawal of accumulated contributions followed by the redeposit of such contributions upon re-entrance into public service as herein provided shall not constitute a break in membership, but this section shall not be construed to entitle any person to credit as prior service for time during which he was not in public service as defined in this act.

Credit for any prior service, not previously granted, shall be granted to a member upon request for retirement provided that the member has a total of not less than ten (10) years of creditable state service of which not less than three (3) years have been as a contributing member of the retirement system and the retirement allowance does not include credit for all state service prior to July 1, 1945, or in the case of a contracting city prior to the date of the contract, or July 1, 1947, whichever is earlier. Proper certification of such service must be furnished.

Management and control of system.

(i) The management and control of the retirement system shall be vested in the board of administration, and it shall exercise the following powers and perform the following duties:

Data for actuarial determination—rates.

(j) The board of administration shall keep in convenient form such data as shall be necessary for the actuarial valuation of the retirement fund created by this act. On July 1, 1946, and at the end of every two-year period thereafter, it shall cause to be made an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries under the provision of this act, and shall further cause to be made an actuarial valuation of the assets and liabilities of the public employees' retirement fund herein created, and from time to time shall determine the rate of interest being earned on the said retirement fund. Upon the basis of any or all of such investigation, valuation, and determination, said board shall adopt such mortality, service and other tables and such interest rate, in lieu of the interest rate specified herein, or any of such items as it

HeinOnline -- 1965 751 1965

shall deem necessary, and shall make such revision in rates of contributions of members as it may deem necessary to comply with the provisions of section 68-701. No adjustment shall be included in the new rates for time prior to the effective date of such revision.

Interest to be credited on contributions —rate.

(k) The board shall credit contributions of members of the state and contracting cities with interest at the rate being used under the system on the effective date hereof, compounded each June 30, subject to the foregoing subdivision (j) of section 68-501. At the end of each fiscal year, beginning with the second fiscal year of the operation of the retirement system, it may credit to all contributions held in the retirement fund on June 30 of the then current fiscal year, such interest in excess of said rate provided herein as it may deem proper in the light of the earnings of the retirement fund during such fiscal year, but such additional interest credited during any fiscal year shall not be greater than the excess of said earnings over the interest otherwise credited to contributions during that year. Interest at said rate, compounded annually, subject to said foregoing subdivision (j) hereof, shall be used in the calculation of benefits under any mortality table adopted by the board, regardless of any additional interest allowed on contribution under this paragraph.

Records and accounts to show.

In addition to other records and accounts, it shall keep such records and accounts as may be necessary to show at any time:

The total accumulated contributions of members.

The total accumulated contributions of retired members less the annuity payments made to such members.

The accumulated contributions of the state and of contracting cities held for the benefit of members on account of service rendered as members of the retirement system.

All other accumulated contributions of the state and of contracting cities which shall include the amounts available to meet the obligation of the state and of the contracting cities, respectively on account of benefits that have been granted to retired employees and on account of prior service of members.

Annual financial statement.

(l) In addition to rendering the annual report to the governor required by subsection (c) of this section, it

HeinOnline -- 1965 752 1965

shall cause to be published annually a financial statement showing an actuarial valuation of the assets and liabilities of the retirement system created by this act and a statement as to the accumulated cash and securities in the retirement fund as certified by the state auditor, but until all prior service is verified, the board of administration may omit from the financial statement published annually, assets and liabilities resulting from such prior service, and may include assets and liabilities on account of service rendered as members in amounts equal only to accumulated contributions held on account of such service."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1965.

CHAPTER 234

An Act Amending Section 93-901, R. C. M. 1947, to Provide For the Disqualification of District Judges in Civil Actions and Proceedings; Prescribing Grounds and Procedure For Disqualification; and Repealing All Other Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 93-901, R. C. M. 1947, is amended to read as follows:

Disqualification of judge—when.

"93-901. **Cases in which judge may be disqualified—calling in another judge.** Any justice, judge, or justice of the peace must not sit or act as such in any action or proceeding:

1. To which he is a party, or in which he is interested;

2. When he is related to either party by consanguinity or affinity within the sixth degree, computed according to the rules of law;

3. When he has been attorney or counsel for either party in the action or proceeding, or when he rendered or made the judgment, order, or decision appealed from;

HeinOnline -- 1965 753 1965

Affidavit.

4. When either party makes and files an affidavit as hereinafter provided, that he has reason to believe, and does believe, he cannot have a fair and impartial hearing or trial before a district judge. Such affidavit may be made by any party to an action, motion, or proceeding, personally, or by his attorney or agent, and shall be filed with the clerk of the district court in which the same may be pending.

Filing of affidavit of disqualification —1 judge in district.

Limitation not to apply—when.

Other cases—filing 15 days before hearing.

Notice.

Disqualified judge without authority in the action—exclusions.

Plaintiff and defendant may each disqualify 2 judges.

More than one judge in district—first disqualification.

In any judicial district having only one judge the affidavit of disqualification with reference to any action or proceeding to be tried before a jury must be filed at least one day before the day appointed or fixed by the court for setting the trial calendar; provided, however, this limitation shall not apply unless notice of such setting date shall be given to all parties by the clerk of the district court at least fifteen (15) days prior thereto. In all other cases the affidavit must be filed at least fifteen (15) days before the day appointed or fixed for the hearing or trial of any such action, motion, or proceeding (provided such party shall have had notice of the hearing of such action, motion, or proceeding for at least the period of fifteen (15) days and in case he shall not have had notice for such length of time, he shall file such affidavit immediately upon receiving such notice). Upon the filing of the affidavit, the judge as to whom said disqualification is averred shall be without authority to act further in the action, motion, or proceeding, but the provisions of this section do not apply to the arrangement of the calendar, the regulation of the order of business, the power of transferring the action or proceeding to some other court nor to the power of calling in another district judge to sit and act in such action or proceeding, providing that no judge shall so arrange the calendar as to defeat the purposes of this section. No more than two judges can be disqualified in said action or proceeding, at the instance of the plaintiff, and no more than two at the instance of the defendant, in said action or proceeding, and this limitation shall apply however many parties or persons in interest may be plaintiffs or defendants in such action or proceeding. If there be more than one judge in any judicial district in which said affidavit is made and filed, upon the first disqualification of a judge in the cause, another judge, residing in the judicial district wherein the affidavit is made and filed, must

HeinOnline -- 1965 754 1965

be called in to preside in such action, motion or proceeding; upon the second or any subsequent disqualification of a judge in the cause, a district judge of another judicial district of the state must be called in to preside in such action, motion, or proceeding, or the action, motion, or proceeding transferred to a district judge of another judicial district of the state; when another judge has assumed jurisdiction of an action, motion, or proceeding, the clerk of the district court in which the same was pending, shall at once notify the parties or their attorneys of record in the same, either personally or by registered mail, of the name of the judge called in, or to whom such action, motion, or proceeding was transferred. Such second or subsequent affidavit of disqualification shall be filed with the clerk of the district court in which such action, motion or proceeding may be pending within three days after the party or his attorney of record, filing such affidavit, has received notice as to the judge assuming jurisdiction of such action, motion, or proceeding.''

Subsequent disqualification.

Notification of parties by clerk of district court where action was pending.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective immediately.

Approved March 8, 1965.

CHAPTER 235

An Act to Permit the Montana Fish and Game Commission to Plan and Develop Outdoor Recreational Resources in the State, Which Authority Shall Permit Receiving and Expending Funds Including Federal Grants For This Purpose; Creating an Outdoor Recreation Advisory and Planning Committee; Providing That the Act is Effective on Passage and Approval.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Montana is uniquely endowed with scenic landscapes and areas rich in recreational value. This outdoor heritage enriches the lives of citizens, attracts new residents and businesses to the state, and is of major

Planning and development of outdoor recreational resources in the state.

HeinOnline -- 1965 755 1965

significance to the expanding tourist industry. It is the purpose of this act to give authority to the Montana state fish and game commission to plan and develop outdoor recreational resources in the state which authority shall permit receiving and expending funds including federal grants for this purpose.

Fish and game commission to act for state.

Section 2. The fish and game commission is hereby designated as the state agency to represent and act for the state for the purpose of implementing the "Land and Water Conservation Fund Act of 1965."

Authority.

Section 3. The fish and game commission shall do those things necessary to comply with the provisions of the "Land and Water Conservation Fund Act of 1965." Among other things, the fish and game commission may

Recreational plan.

(1) Prepare a comprehensive statewide outdoor recreational plan which shall contain

(a) An evaluation of the demand for and supply of outdoor recreational resources and facilities in Montana, and

(b) A program for implementation of the plan.

Administer federal moneys.

(2) Accept and administer moneys paid by the Secretary of the Interior for approved projects.

Contract with other agencies.

(3) Contract with other state agencies, cities, counties and other political subdivisions of the state, private organizations, and agencies of the federal government.

Acquire and develop lands and waters.

(4) Acquire, other than by eminent domain, and develop outdoor recreational areas and facilities, and land and waters, and interests in land and waters for such areas and facilities.

Coordinate activities with other agencies.

(5) For the purpose of implementing the "Land and Water Conservation Fund Act of 1965," coordinate its activities with, and represent the interests of, all agencies of state, city, county, and other governmental units with outdoor recreational responsibilities.

Outdoor recreation advisory and planning committee.

Section 4. There is created the outdoor recreation advisory and planning committee consisting of not more than twenty (20) members. The members of the committee shall be appointed by the governor and shall serve at the pleasure of the governor. The committee shall elect a chairman and any other necessary officers.

HeinOnline -- 1965 756 1965

The function of the committee is to advise and consult with the fish and game commission on all phases of this act. Function.

Section 5. This act is effective upon passage and approval. Effective immediately.

Approved March 8, 1965.

CHAPTER 236

An Act to Amend Section 26-114, R. C. M. 1947, as Amended, by Providing for the Appointment of Such Employees of the State Fish and Game Commission to Act as Ex-Officio State Fish and Game Wardens as the Director, With the Approval of the Commission, Shall Appoint.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-114, R. C. M. 1947, as amended, is amended to read as follows: Amending clause.

"26-114. *Appointment of ex-officio state fish and game wardens.* All sheriffs and their deputies, constables, all peace officers of the state, or any subdivision thereof, and all state forest officers, and such other officers of the United States forest service or agents of the United States fish and wildlife service which are assigned to duty in this state, *and field personnel fish and game commission,* as the director, with the approval of the state fish and game commission, may appoint are hereby made ex-officio state fish and game wardens, without pay, except that the commission may, in its discretion, allow actual and necessary traveling expenses, which, if allowed, shall be paid upon proper vouchers from the state fish and game funds, and shall have the same powers with reference to the enforcement of the fish and game laws of this state as regularly appointed state fish and game wardens, and it is hereby made their duty to assist, whenever possible, in the enforcement of said laws." Appointment of ex-officio fish and game wardens. Expenses.

Approved March 8, 1965.

CHAPTER 237

An Act to Amend Section 66-2405, Revised Codes of Montana 1947, by Increasing Examination Fees and

HeinOnline -- 1965 757 1965

Renewal Fees for State Master and Journeyman Plumbers' Licenses.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 66-2405, Revised Codes of Montana, 1947, is hereby amended to read as follows:

Examination fee for plumber's license—expiration —renewal fee —bond.

"66-2405. **Examination fee — expiration of license — annual renewal — fees — bond required of master plumbers.** No applicant for a master plumber's license shall be entitled to submit to the examinations prescribed by the said board of plumbing examiners until he shall have deposited with the secretary of the said board the sum of *fifty ($50.00)* dollars as an examination fee, and no applicant for a journeyman plumber's license shall be entitled to submit to the examination prescribed by the said board of plumbing examiners until he shall have deposited with the secretary of said board the sum of *twenty-five ($25)* dollars as an examination fee. Each state license when issued shall expire one year from the date of its issuance, and shall have no force or effect after the expiration of one year after the date of its issuance. Any state license, however, issued to a master plumber or a journeyman plumber shall be renewed annually, without examination, at any time prior to its expiration, by a written request for its renewal, directed to the secretary of the said board of plumbing examiners, and the payment of the sum of *twenty-five ($25)* dollars for a renewal of a master plumber's license, and the sum of *ten ($10)* dollars for a journeyman plumber's license, and any such renewal shall also be for the period of one year. After July 1, 1961, no master plumber's license shall be issued or renewed unless and until the applicant therefor shall have deposited with the board a good and sufficient bond to be approved by the board, or cash in lieu thereof, in the amount of five thousand dollars ($5,000) to insure the faithful performance of his duties arising out of the provisions of the state plumbing code or the provisions of Chapter 24, Title 66, Revised Codes of Montana."

Approved March 8, 1965.

CHAPTER 238

An Act to Amend Section 26-105, R. C. M. 1947, Providing an Increase in the Total Annual Amount of Per Diem

HeinOnline -- 1965 758 1965

Allowed for the Members and Chairman of the Montana Fish and Game Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-105, R. C. M. 1947, as amended, is amended to read as follows: Amending clause.

"Section 26-105. **Compensation of commissioners.** The members of the commission shall receive no compensation for their services as members thereof, except a per diem of fifteen dollars ($15.00) for each member for every day in actual attendance at the meetings of said commission, or in the execution of their duties as members of said commission; provided, however, that in no instance shall any member of said commission other than the chairman receive as said per diem a sum in excess of *one thousand dollars ($1,000.00)* in any one (1) year, provided that the chairman of the commission shall not receive a sum in excess of *one thousand five hundred dollars ($1,500.00)* in any one (1) year, and the members of said commission shall be allowed their actual and necessary traveling expenses, while performing their duties as members of said commission which shall be paid from the fish and game fund of the state of Montana upon presentation of proper vouchers therefor." Compensation. $15.00. Limitations.

Approved March 8, 1965.

CHAPTER 239

An Act to Provide for the Issuance of Twenty Dollar ($20.00) Nonresident Bear Licenses by the Montana Fish and Game Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Provision for nonresident bear license.** The state fish and game commission may issue special licenses in the manner provided in subsection 15 of section 26-104, R. C. M. 1947, to nonresidents to hunt black or brown bear, including any color phase of black bear. Such special nonresident license shall be valid only for the area designated on the license and shall expire on the thirty-first (31st) day of August of each year. The fee for such special nonresident license shall be twenty dollars Nonresident bear license. Validity. Fee.

HeinOnline -- 1965 759 1965

Shipping permit.

($20.00). There shall be a permit included with such special nonresident license, to authorize the holder thereof to ship, transport or remove out of state any bear or part thereof taken under authority of said license.

Rules and regulations.

The fish and game commission is authorized to promulgate rules and regulations relative to tagging, possession or transportation of bear within or without the state.

Effective immediately.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1965.

CHAPTER 240

An Act Authorizing School Districts Adjoining Another State to Contract with School Districts in the Neighboring State for the Joint Erection, Operation and Maintenance of School Facilities for Both Districts; Providing for the Financing of Such Joint Facilities; and Providing for the Approval of Contracts for Such Joint Facilities by the Electors of the School District.

Be it enacted by the Legislative Assembly of the State of Montana:

Agreement to provide for joint erection, operation and maintenance of school facilities for adjoining districts.

Section 1. The board of trustees of any school district with boundaries adjoining another state may enter into an agreement and contract with a school district in such adjoining state to provide for the joint erection, operation and maintenance of school facilities for both districts upon such terms and conditions as may be mutually agreed upon between such districts in accordance with the provisions of this act.

Agreement—form and terms—approval.

Section 2. An agreement proposed for adoption by a school board under this act shall be in the form and contain such terms as may be prescribed by the superintendent of public instruction and no agreement shall be submitted to a vote of the people under this act unless it has first been approved in writing by the superintendent of public instruction.

Approved agreement submitted to electorate for vote —form.

Section 3. An approved agreement shall be submitted to the electorate of the school district at a special election called for that purpose or at a regular election for school

HeinOnline -- 1965 760 1965

trustees. The question on the ballot at said election shall be in substantially the following form.

"Shall the proposed agreement between this school district and school district number.....of..... county, state of....., be executed?"

No agreement made pursuant to this act shall be valid until it has been approved by the electors of the district in the manner herein provided. Validity.

Section 4. Facilities erected and maintained under this act may be located either in Montana or such adjoining state. Facilities in Montana or adjoining state.

Section 5. The school district entering into such an agreement may borrow money, levy taxes and issue bonds for such joint facilities in the same manner and to the same extent as other school districts within this state. School district may borrow money, levy taxes and issue bonds.

Approved March 8, 1965.

CHAPTER 241

An Act to Amend Section 26-202.1, R. C. M., 1947, Relating to Fish and Game Licenses, by Deleting Reference to Bear in the Resident Game Bird License, Granting Permission to Hunt Bear With All Game Animal Licenses, and by Restricting Nonresident Hunting of Game Animals to Areas Designated by the Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-202.1, R. C. M., 1947, is amended to read as follows: Amending clause.

"26-202.1. **Licenses—fees—classifications of licenses—fees and powers under licenses.** (1) **Class A license—resident fishing license.** Upon payment of a fee of three dollars ($3.00) the applicant who qualifies therefor shall receive a Class A license which shall entitled the holder thereof to fish with hook and line or rod as authorized by regulations of the commission. Resident fishing license.

(2) **Class A-1 license — resident game bird license.** Except as herein provided, any resident person of Montana who is twelve (12) years of age or older, may, upon payment of a fee of two dollars ($2.00) receive a Class Resident game bird license.

HeinOnline -- 1965 761 1965

A-1 License, which will entitle the holder to pursue, hunt, shoot and kill game birds and possess the dead bodies of game birds which are so authorized by regulations of the commission.

Certificate of competency required for residents under 18 years of age.

(a) On and after January 1, 1964 no hunting licenses shall be issued to any resident person under the age of eighteen (18) years unless he presents to the person authorized to issue such license a certificate of competency as provided by this section.

Instruction in the handling of firearms.

The department of fish and game shall provide for a course of instruction in the safe handling of firearms and for the purpose may co-operate with any reputable association or organization having as one of its objectives the promotion of safety in the handling of firearms. The department may designate any person found by it to be competent to give instructions in the handling of firearms. A person so appointed shall give such course of instruction and upon the successful completion thereof shall issue to the person instructed a certificate of competency in the safe handling of firearms.

Special bow and arrow license.

(3) **Class A-2 license — special bow and arrow license.** Any holder of a Class A-1 license and any one of the following: a Class A-3, A-4, A-5, B-2, or B-4 license; may upon payment of an additional sum of two dollars ($2.00) to any agent of the fish and game commission authorized to issue fishing and hunting licenses be entitled to a Class A-2 license, which shall authorize the holder thereof to pursue, hunt, shoot, and kill deer, antelope and elk with bow and arrow and to possess the carcass of deer, antelope and elk during a special season, as so licensed and in special areas, as may be designated by the fish and game commission.

Deer and elk tags.

(4) **Class A-3, A-4, A-5 licenses.** Any holder of a Class A-1 License who is twelve (12) years of age or older, may upon payment of the proper fee or fees be entitled to any one or more of the following licenses: Class A-3, Deer A Tag, one dollar ($1.00); Class A-4, Deer B Tag, one dollar ($1.00); Class A-5, Elk Tag, one dollar ($1.00); which will entitle the holder to pursue, hunt, shoot, and kill the game animal or animals authorized by the license held and to possess the dead bodies of game animals of the state which are so authorized by the regulation of the commission. *Any holder of a Class A-3, A-4 or A-5 license*

Bear.

HeinOnline -- 1965 762 1965

shall further be entitled to pursue, hunt, shoot and kill game bear and possess the dead bodies of game bear which are so authorized by regulations of the commission.

Nonresident fishing license.

(5) **Class B license—nonresident fishing license.** Any nonresident of the state of Montana or any person who has been a resident citizen for less than six (6) months, upon payment of the sum of ten dollars ($10.00) to any agent of the fish and game commission authorized to issue fishing and hunting licenses, shall be entitled to a Class B license, which shall entitle the holder thereof to fish with hook and line as authorized by the rules and regulations of the commission.

Nonresident game bird license.

(6) **Class B-1 license—nonresident game bird license.** Any nonresident of the state of Montana or any person who has been a resident citizen for less than six (6) months, upon payment of the sum of twenty-five dollars ($25.00) to any agent of the fish and game commission authorized to issue fishing and hunting licenses shall be entitled to a Class B-1 license, which shall entitle the holder thereof to pursue, hunt, shoot, kill and possess game birds as authorized by the rules and regulations of the commission.

Nonresident big game license.

(7) **Class B-2 license—nonresident big game license.** Any nonresident of the state of Montana, or any person who has been a resident citizen for less than six (6) months, upon the payment of the sum of one hundred dollars ($100.00) to any agent of the fish and game commission authorized to issue fishing and hunting licenses, shall be entitled to a Class B-2 license which shall authorize the holder to pursue, hunt, shoot, *and* kill game animals *in the area or areas designated in the license, as determined by the commission,* and to possess the carcasses of same, and to pursue, hunt, shoot, kill and possess game birds, and to fish with hook and line as may hereinafter be authorized by the rules and regulations of the commission.

Temporary nonresident or tourist license.

(8) **Class B-3 license—temporary nonresident or tourist license.** Any nonresident of the state of Montana, upon payment of the sum of three dollars ($3.00) to any agent of the fish and game commission authorized to issue fishing and hunting licenses, shall be entitled to a temporary nonresident fishing license, which shall authorize the holder to fish with hook and line as authorized by the rules and regulations of the fish and game commission for a

HeinOnline -- 1965 763 1965

period of six (6) days from and after the issuance of such license.

Special licenses.

(9) **Special licenses.** Any applicant who is the holder of a Class A-1 resident bird license or any applicant who is the holder of a Class B-2 nonresident big game license may apply for a special license, which in the judgment of the fish and game commission, is to be issued and shall pay the following fees therefor:

Moose, twenty-five dollars ($25.00).

Mountain goat, five dollars ($5.00).

Mountain sheep, fifteen dollars ($15.00).

Bison or buffalo, twenty-five dollars ($25.00).

Antelope, one dollar ($1.00).

In the event that the number of applications received from holders of Class A-1 resident *bird* licenses and Class B-2 nonresident big game licenses exceeds the number of special licenses which the fish and game commission desires to issue in any hunting district, then the number of special licenses issued to the holders of Class B-2 nonresident big game licenses shall not exceed ten per cent (10%) of the total issued. *Any holder of a special license as herein provided shall be further entitled to pursue, hunt, shoot and kill game bear and possess the dead bodies of game bear which are so authorized by regulations of the commission.*

Bear.

Trapper's license.

(10) **Class C license—trapper's license.** Any holder of a Class A-1 license, upon making application and paying the sum of ten dollars ($10.00) to the fish and game commission, shall be entitled to a trapper's license, which shall authorize the holder thereof to trap furbearing animals, within the state of Montana at such times and in such manner as may be lawful so to do under the laws of the state and the regulations of the fish and game commission, and at such places as may be designated in said license.

Land owner's trapper's license.

(11) **Class C-1 license—land owner's trapper's license.** Any owner or tenant, or member of the immediate family of said owner or tenant, upon making application to the fish and game commission, and upon payment of the sum of one dollar ($1.00) shall be entitled to a land owner's trapper's license which shall entitle the holder thereof

HeinOnline -- 1965 764 1965

to trap any furbearing animal, on land owned or leased by him, or his immediate family, at such times and in such manner as may be lawful so to do under the laws of the state and the regulations of the fish and game commission and at such places as may be designated in said licenses.

(12) **Exception.** Any person a resident of the state of Montana as defined in section 26-202.3, of the Revised Codes of Montana, 1947, who has attained the age of seventy (70) years shall be entitled to fish without a Class A license, and that any child residing at the Montana children's center at Twin Bridges, will be entitled to fish without a license, provided that said persons carry proof of age, or proof of residency at the Montana children's center, in lieu of Class A license described in the foregoing subsection (1), and provided that for persons convicted of any violation of the fish and game laws or regulations of the state of Montana, the privilege conferred by this subsection shall be revoked for a period of not less than six (6) months. A written statement from the superintendent of the Montana children's center is proof of residency at that institution. Exception.

Section 2. This act shall be in full force and effect upon passage and approval. Effective immediately.

Approved March 8, 1965.

CHAPTER 242

An Act Relating to Issuing Teaching Certificates to Persons Who Are Not Citizens; Amending Section 75-2501, R. C. M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-2501, R. C. M., 1947, is amended to read as follows: Amending clause.

"75-2501. 1. *Except as provided in subsection 2 of this section, no* certificate to teach in the public schools of Montana shall be granted to any person who is not a citizen of the United States. *This requirement shall not apply to persons who are not citizens of the United States but who are approved annually by the state superintendent of public* Teaching certificates granted only to citizens of U.S. —exception.

HeinOnline -- 1965 765 1965

instruction for employment in the public schools, the public junior colleges and units of the university of Montana as exchange teachers from foreign countries, or for special instruction, study, or research.

2. The superintendent of public instruction, in accordance with section 75-2516 and upon request of a board of trustees, may issue a Class 5 provisional certificate to a person who is not a citizen.

Teachers must be at least 18 years of age and present health certificate.

3. No person is eligible to teach in any public school in this state, or to receive a certificate to teach, who has not attained the age of eighteen (18) years and who has not secured and presented to the certification authority a satisfactory health certificate from a reputable physician.

Certificate of qualification.

4. No person shall be accounted a qualified teacher within the meaning of the school law who has not first secured from the certificating authority a certificate setting forth his qualifications to teach in the public schools of Montana.

Certificates to be registered with county superintendent.

5. All certificates before they shall be valid in any county must be registered in the office of the county superintendent of schools of such county within 60 days after the term of service of any teacher begins, and no salary for services rendered after this grace period has expired shall be paid any teacher who fails to register such certificate."

Approved March 9, 1965.

CHAPTER 243

An Act to Submit to the Qualified Electors of Montana an Amendment to the Constitution of Montana by Adding a New Section to Provide For the Continuity of State and Local Governments in a Period of Emergency Caused by Enemy Attack Notwithstanding Other Constitutional Provisions.

Be it enacted by the Legislative Assembly of the State of Montana:

Constitutional amendment.

Section 1. A new section is added to the constitution of the state of Montana to read as follows:

Continuity of government during emergency.

"Section ..... The legislative assembly in order to insure continuity of state and local governmental opera-

HeinOnline -- 1965 766 1965

tions in a period of emergency resulting from a disaster caused by enemy attack may enact laws:

(1) To provide for prompt and temporary succession to the powers and duties of elected and appointed public officers who are killed or incapacitated. Succession of public officers.

(2) To adopt other measures that may be necessary to insure the continuity of governmental operations. Other measures.

Such laws shall be effective only during the emergency that affects a particular office or governmental operation, and such laws may deviate from other provisions of the Montana constitution, including but not limited to the following sections: Effective—when.

(1) Section 3, Article X, seat of state government.

(2) Section 2, Article XVI, seat of county governments.

(3) Section 16, Article VII, succession to governor.

(4) Section 4, Article XVI, vacancy on board of county commissioners.

(5) Section 6, Article XVI, other vacancies in county government.

(6) Section 45, Article V, vacancies in legislative assembly.

(7) Section 11, Article VII, special legislative sessions.

(8) Section 5, Article V, length of legislative session.

(9) Section 10, Article V, quorum to do business in each house.

(10) Section 6, Article XIX, location of county offices.

(11) Section 1, Article VII, duties of executive officers of state.

(12) Section 7, Article VII, appointments by governor."

Section 2. When this amendment is submitted to the electors of the state of Montana as provided by law, there shall be printed on the ballot the full title and the first section of this act and the following words: Voting.

HeinOnline -- 1965 767 1965

"☐ For the above amendment.

☐ Against the above amendment."

Approved March 9, 1965.

CHAPTER 244

An Act to Amend Section 91-4414, R. C. M. 1947, Relating to Exemptions From Inheritance Tax and Totally Exempt Transfers.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 91-4414, R. C. M. 1947, is amended to read as follows:

Exemptions from first $25,000.

"91-4414. **Exemptions from first $25,000.** The following exemptions from the tax are hereby allowed, the exemption allowed to each person, institution, association, corporation and body politic to be taken out of the first twenty-five thousand dollars passing by any such transfer to such person, institution, association, corporation or body politic:

Transfers totally exempt.

(1) **Transfers totally exempt.** All property transferred to the state or any of its institutions, or to municipal corporations within the state for strictly county, city, town, or municipal purposes, shall be exempt. All property transferred to any society, corporation, institution, or association, in trust or otherwise, or to any foundation or trust, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation, shall be exempt, if any of the following conditions is present:

Conditions.

(a) The society, corporation, institution, foundation, trust, or association is organized solely for religious, charitable, scientific, literary, or educational purposes under the laws of this state or of the United States;

(b) The property transferred is limited for use within this state;

HeinOnline -- 1965 768 1965

(c) In the event that the society, corporation, institution, foundation, trust, or association is organized or existing under the laws of another state of the United States or of a foreign state or country, at the date of the decedent's death any one of the following conditions existed:

(i) The other state, foreign state, or foreign country did not impose a legacy, succession, or death tax of any character in respect to property transferred to a similar society, corporation, institution, foundation, trust, or association organized or existing under the laws of this state;

(ii) The laws of the other state, foreign state, or foreign country contained a reciprocal provision under which property transferred to a similar society, institution, foundation, trust, or association organized or existing under the laws of another state of the United States or foreign state or country was exempt from legacy, succession or death taxes of every character, if the other state of the United States or foreign state or country allowed a similar exemption in respect to property transferred to a similar society, institution, foundation, trust, or association organized or existing under the laws of another state of the United States or foreign state or country;

(iii) The society, corporation, institution, foundation, trust, or association owns or operates a hospital for crippled children within the United States, primarily practicing orthopedics, to which crippled or afflicted children from the state of Montana are, without discrimination, gratuitously admitted and treated and the property transferred is limited for use at such hospital.

Property valued at $20,000 transferred to wife, or $10,000 transferred to husband and $2,000 transferred to other described persons, is exempt.

(2) *$20,000; $10,000;* **$2,000 exempt, when.** Property of the clear value of *twenty thousand dollars ($20,000),* transferred to the wife, or *ten thousand dollars ($10,000)* transferred to the husband of the decedent, and two thousand dollars transferred to each of the other persons described in the first subdivision of section 91-4409 shall be exempt. Such exemption to the widow shall include all her statutory dower and other allowances. Any child of the decedent shall be entitled to credit for so much of the tax paid by the widow as applied to any property which shall thereafter be transferred by or from such

HeinOnline -- 1965 769 1965

widow to any such child, provided the widow does not survive said decedent to exceed ten years.

$500 exempt —when.

(3) **$500 exempt, when.** Property of the clear value of five hundred dollars transferred to each of the persons described in the second subdivision of section 91-4409 shall be exempt.

Property without state exempt —when.

(4) **Property without the state exempt, when.** No tax shall be imposed upon any tangible personal property of a resident decedent when such property is located without this state, and when the transfer of such property is subect to an inheritance or transfer tax in the state where located and which tax has actually been paid, secured or guaranteed, provided such property is not without this state temporarily nor for the sole purpose of deposit or safekeeping; and provided the laws of the state where such property is located allow a like exemption in relation to such property left by a resident of that state and located in this state."

Approved March 9, 1965.

CHAPTER 245

An Act to Amend Section 53-106, R. C. M. 1947, by Providing That the Number Plates on Motor Vehicles Be Issued Annually; That They Be Treated With Reflectorized Background Material or Numerals and Border; Providing for an Additional Registration Fee; Providing for the Disposition of Such Fees; Deleting Therefrom the Provision for Insert Tabs or Plates and Deleting Therefrom the Provision for Windshield Stickers.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 53-106, R. C. M. 1947, be amended to read as follows:

License plates.

"53-106. (1757) **Number plates.** (1) Every motor vehicle which shall be driven upon the streets or highways of this state shall display both front and rear a number plate, bearing the distinctive number assigned such vehicle by the registrar of motor vehicles. Such number plate shall be in eight series: one series for owners of motor cars, one for owners of motor vehicles of the

Series.

HeinOnline -- 1965 770 1965

motorcycle type, one for trailers, one for trucks, one for dealers in vehicles of the motorcycle type, one for franchised dealers in new motor cars (including trucks and trailers) or new and used motor cars (including trucks and trailers) which shall bear the distinctive letter 'D' or the 'DEALER,' one for dealers in used motor cars only (including used trucks and trailers) which shall bear the distinctive letters 'UD' or the letter 'U' and the word 'DEALER,' and one for dealers in trailers and/or semi-trailers (new or used) which shall bear the distinctive letters 'DTR' or the letters 'TR' and the word 'DEALER,' and all such markings for the aforementioned kinds of dealers' plates shall be placed on the number plates assigned thereto in such position thereon as the registrar may designate. All number plates for motor vehicles shall be renewed annually, shall bear a distinctive marking each year, and shall be furnished by the state.

Renewal.

(2) In the case of motor cars, number plates shall be of metal six inches wide and twelve inches in length, the outline of the state of Montana shall be used as a distinctive border on such license plates, and the word 'Montana' with the year shall be placed across the bottom of the plate. *Such registration plate and the required serial numbers and letters thereon shall be treated with a reflectorized background material or numerals and border according to specifications prescribed by the registrar. An additional fee of fifty (50) cents per year for each registration of a vehicle shall be added to the registration fee. Revenue from this fee shall be forwarded by the respective county treasurers to the state treasurer for deposit in the general fund of the state of Montana.* The distinctive registration numbers shall begin with a number one (1) or with a letter-number combination such as 'A 1' or 'AA 1,' or any other similar combination of letters and numbers and be numbered consecutively for each series of plates. The distinctive registration number or letter-number combination assigned to the vehicle shall appear on the plate preceded by the number of the county and appearing in horizontal order on the same horizontal base line, and the county number shall be separated from the distinctive registration number by a dash or a dot unless a letter-number combination is used. The dimensions of such numerals and letters shall be determined by the registrar of motor vehicles, provided that all county and registration numbers shall be of equal height.

Description of license plates.

HeinOnline -- 1965 771 1965

Tax exempt motor vehicles —license plates.

(3) For the use of tax-exempt motor vehicles, in addition to the markings herein provided, number plates shall have thereon the following distinctive markings:

For vehicles owned by the state the registrar of motor vehicles may designate the prefix number for the various state departments, and all numbered plates issued to state departments shall bear the words 'State Owned' and no year number will be indicated thereon as these numbered plates will be of a permanent nature, and will be renewed by the registrar of motor vehicles at such time when the physical condition of numbered plates require same. For vehicles owned by the counties, municipalities and school districts and used and operated by officials and employees thereof in line of duty as such, and for vehicles on loan from the United States government or the state of Montana, to, or owned by, the civil air patrol and used and operated by officials and employees thereof in the line of duty as such, there shall be placed on the number plates assigned thereto, in such position thereon as the registrar may designate, the letter 'X' or the word 'EXEMPT.' Distinctive registration numbers for plates assigned to motor vehicles of each of the counties in the state and those of the municipalities and school districts situated within each of said counties shall begin with number 1 and be numbered consecutively.

Trucks and trailers.

(4) On all number plates assigned to motor vehicles of the truck and trailer type, other than tax-exempt trucks and trailers, there shall appear the letter 'T' or the word 'TRUCK' for plates assigned to trucks and the letters 'TR' or the word 'TRAILER' for plates assigned to trailers.

Plates used only on assigned vehicle.

Number plates assigned to any motor vehicle shall be used only on the specific motor vehicle to which originally assigned.

Assignment of county numbers.

(5) For the purpose of this act, the several counties of the state shall be assigned numbers as follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3; Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead, 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson, 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23; Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30;

HeinOnline -- 1965 772 1965

Teton, 31; Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon, 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46; Meagher, 47; Liberty, 48; Park, 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral, 54; Petroleum, 55; Lincoln, 56; any new counties shall be assigned numbers by the registrar of motor vehicles as they may be formed, beginning with the number 57."

Approved March 9, 1965.

CHAPTER 246

An Act Relating to the Acquisition, Erection, Equipment, Enlargement and Improvement of Housing and Other Revenue-Producing Facilities at Units of the University of Montana, and the Borrowing of Funds Therefor by the Regents by the Issuance and Sale of Negotiable Bonds and Other Securities and the Making of Purchases on Time, Payable Solely from Net Income from Rents and Board, Receipts from Charges, Admissions or Fees for the Facilities, and Gifts, Contributions and Grants of Funds, Without Obligating the State of Montana or Using State Funds Except as Provided, and the Provision of Security for Such Borrowing, and the Refunding of Outstanding Obligations; Amending Sections 75-216, R. C. M. 1947, Enacted as Section 1, Chapter 252, Laws of 1963; 75-218, R. C. M. 1947, Enacted as Section 3, Chapter 252, Laws of 1963; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-216, R. C. M. 1947, enacted as Section 1, Chapter 252, Laws of 1963, is amended to read as follows:

Authority of regents —revenue producing facilities at university units— buildings.

"75-216. **Powers of regents enumerated.** The regents of the university of Montana may:

(1) Acquire, erect, equip, enlarge and improve, at any unit of the university of Montana, any of the following types of revenue-producing facilities: residence halls, dormitories, apartments and other student housing facilities; dining rooms and halls and other food service facili-

HeinOnline -- 1965 773 1965

ties; student union buildings and facilities*; and those other facilities specifically authorized by joint resolution of the legislative assembly. When a facility or part of a facility has been designated as a student union, such facility or part of facility shall be used only as a student union.*

Rentals and service.

(2) Rent housing facilities and provide food and other services to the students, officers, guests and employees of the unit at rates that will insure a reasonable net income over operating expenses and will provide for debt service and reserves, and provide for the collection of charges, admissions and fees for the use of other facilities by students and other persons, which charges, admissions and fees shall not be deemed to be tuition within the meaning of section 75-506 of the Revised Codes of Montana, 1947, and may be collected from any or all students. *Student building fees established and in effect on January 1, 1965, which are imposed uniformly upon all students, or upon all of a specified class of students in attendance at any unit of the University of Montana, shall not be increased without authorization by law, unless absolutely necessary to the extent to pay only principal or interest due on obligations for which such fees have been or shall be pledged, or to maintain reserves securing the payment of such obligations, in accordance with the indentures, resolutions, contracts or other instruments authorizing the issuance of such obligations; provided that at any unit of the University of Montana where the aggregate amount of student building fees in effect on January 1, 1965, was less than fifty dollars ($50.00) per student per academic year, such fees may be increased or additional student building fees may be established, to an aggregate amount not exceeding fifty dollars ($50.00) per student per academic year and provided further that additional student building fees may be established or existing student building fees may be increased at Montana State University, at Missoula, to an aggregate amount not to exceed ninety dollars ($90.00) per student per academic year. This limitation shall not affect admission or use charges, which are made to individual students or others in proportion to their use or occupancy of particular facilities or services and shall not affect any student building fees or other charges which are made to nonresident students as defined in Section 75-506, R. C. M. 1947.*

Use of net income.

(3) Hold the net income derived from the operation of such facilities *and the charges, admissions and fees so*

HeinOnline -- 1965 774 1965

collected and devote *the revenues from these sources* to debt service and reserves, repairs, replacements and betterments of the facilities or, so far as such revenues have not been *previously* obligated *for these purposes*, to the acquisition, erection, equipping, enlarging or improvement of additional facilities of the types described in this section.

(4) Exercise full control and complete management of such facilities. Management.

(5) Rent the facilities to other public or private persons, firms and corporations for such uses, at such times, for such periods and at such rates as in the regents' judgment will be consistent with the full use thereof for academic purposes and will add to the revenues available for capital costs and debt service." Rent the facilities to other persons at periods and rates consistent with academic purpose.

Section 2. Section 75-218, R. C. M. 1947, enacted as Section 3, Chapter 252, Laws of 1963, is amended to read as follows: Amending clause.

"75-218. **Borrowing by regents.** In carrying out the above powers, the regents may:

(1) Borrow money for any purpose or purposes stated in this chapter, including, if deemed desirable by the regents, the payment of interest on the money borrowed for a facility during the construction thereof and for one (1) year thereafter and the creation of a reserve for the payment of bond principal and interest. Regents may borrow money.

(2) Make purchases on a time or installment basis.

(3) Issue bonds, notes and other securities, negotiable or otherwise, secured as provided in this section, including bearer bonds with appurtenant interest coupons, which shall be fully negotiable notwithstanding any limitation on the source of payment thereof, or fully registered bonds, or bonds registered as to ownership of principal only. Time purchase. Issue of securities.

(4) Pledge for the payment of the purchase price of any facility or of the principal and interest on bonds, notes or other securities authorized in this chapter or otherwise obligate: Pledges.

(a) The net income received from rents, board or both in housing, food service and other facilities.

HeinOnline -- 1965 775 1965

(b) Receipts from student building, activity, union and other special fees prescribed by the regents for all students.

(c) Other income in the form of gifts, bequests, contributions, federal grants of funds, including the proceeds or income from grants of lands or other real or personal property, receipts from athletic *and other* contests, *exhibitions and performances* and collections of admissions and other charges for the use of facilities, *including all use by other persons, firms and corporations for athletic and other contests, exhibitions and performances and for the conduct of their business, educational or governmental functions.*

Payments.

(5) Make payments on loans or purchases from any other available income not obligated for such purposes, including receipts from sales of materials, equipment and fixtures of such facilities, or from sale of the facilities themselves other than land.

Security by trust agreements.

(6) Secure any bonds authorized hereunder by a trust indenture between the regents and any bank or trust company within or without the state of Montana, or by a resolution establishing covenants of the regents with the holders of such bonds, relating to the construction, operation, use and insurance of the facilities, the segregation, expenditure and audit of accounts of the bond proceeds and of the income pledged, the establishment and collection of rents, charges, admissions and fees sufficient to provide net income adequate for prompt payment of principal and interest on bonds and creation and maintenance of reserves for that purpose, and such other matters as the regents may determine to be necessary or desirable for the security and marketability of the bonds.

Issue of refunding bonds.

(7) Issue and sell or exchange bonds, secured as provided in this section, for the refunding of any outstanding bonds or other obligations heretofore or hereafter issued by the regents, subject to the following provisions:

Exchange of bonds.

(a) Refunding bonds may, with the consent of the holders of the bonds to be refunded thereby, be exchanged at par plus accrued interest for all or part of such bonds, or may be sold at a price not less than par plus accrued interest. *They may be secured by a pledge of the same revenues as the bonds refunded, or by a pledge of different or additional revenues received at the same unit of the*

HeinOnline -- 1965 776 1965

university. Nothing herein shall require the holder of any outstanding bond to accept payment thereof or the delivery of a refund bond in exchange therefor, except in accordance with the terms of such outstanding bond. Bonds may be issued to refund interest as well as principal actually due and payable, if the revenues pledged therefor are not sufficient, but not to refund any bonds or interest due which can be paid from revenues then on hand.

Interest.

(b) Refunding bonds may bear interest at a rate lower or higher than the bonds refunded thereby, if they are issued to refund matured principal or interest for the payment of which revenues on hand are not sufficient, or if *they are issued to refund before maturity bonds issued before January 1, 1965, for the purpose of releasing revenues required for payment of the outstanding bonds permitting the pledge thereof for the security of other bonds as well as the refunding bonds, subject to the rights of the holders of the outstanding bonds until those bonds are fully paid and redeemed.* Except as authorized in the preceding sentence, refunding bonds shall not be issued unless their average annual interest rate, computed to their stated maturity dates and excluding any premium from such computation, is at least three eights of one per cent (⅜ of 1%) less than the average annual interest rate on the bonds refunded thereby, computed to their respective stated maturity dates.

Deposit in escrow.

(c) In any case where refunding bonds are issued and sold six (6) months or more before the earliest date on which all bonds refunded thereby mature or are prepayable in accordance with their terms, the proceeds of the refunding bonds, including any premium and accrued interest, shall be deposited in escrow with a suitable bank or trust company, having its principal place of business within or without the state, which is a member of the federal reserve system and has a combined capital and surplus not less than one million dollars ($1,000,000), and shall be invested in such amount and in securities maturing on such dates and bearing interest at such rates as shall be required to provide funds sufficient to pay when due the interest to accrue on each bond refunded to its maturity or, if it is prepayable, to the earliest prior date upon which such bond may be called for redemption *from the proceeds of the refunding bonds,* and to pay and re-

HeinOnline -- 1965 777 1965

deem the principal amount of each such bond at maturity or, if prepayable, at *said* redemption date, and any premium required for redemption on such date; and the resolution or indenture authorizing the refunding bonds shall irrevocably appropriate for these purposes the escrow fund and all income therefrom, and shall provide for the call of all prepayable bonds in accordance with their terms. The securities to be purchased with such escrow funds shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: banks for co-operatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association. Such securities shall be purchased simultaneously with the delivery of the refunding bonds.

Qualified securities.

Use of excess revenues.

(d) Revenues or other funds on hand, in excess of amounts pledged by resolutions or indentures authorizing outstanding bonds for the payment of principal and interest currently due thereon and reserves securing such payment, may be used to pay the expenses incurred by the regents for the purpose of such refunding, including but without limitation the cost of advertising and printing refunding bonds, legal and financial advice and assistance in connection therewith, and the reasonable and customary charges of escrow agents and paying agents. Revenues and other funds on hand, including reserves pledged for the payment and security of outstanding revenue bonds, may be deposited in an escrow fund created for the retirement of such bonds and may be invested and disbursed as provided in subsection (c) hereof, to the extent consistent with the resolutions or indentures authorizing such outstanding bonds.

Sale or exchange of bonds—approval by state controller.

(8) Sell bonds and sell or exchange refunding bonds issued hereunder in such manner and upon such terms as to maturities, interest rates and redemption privileges, and for such price, as the regents shall determine with the approval of the state controller."

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved March 9, 1965.

HeinOnline -- 1965 778 1965

CHAPTER 247

An Act Relating to the Licensing of Day Care Facilities For Children.

Be it enacted by the Legislative Assembly of the State of Montana:

"Child." Section 1. **Definitions.** The word "child" wherever used in this act shall mean any person under twelve years of age. "Day Care Facility" shall mean any person, group of persons, association or place, incorporated or unincorporated, that receives for care during the day or a part of the day three or more children of separate families and continues this type of care for five or more consecutive weeks. It excludes the person who limits care to children who are related to him by blood or marriage or under his legal guardianship and all group facilities established chiefly for educational purposes. "Family Day Care Home" shall mean a family home that receives from three to six children of separate families for care during the day or part of the day for five or more consecutive weeks. "Day Care Center" shall mean any day care facility that receives seven or more children for care for five or more hours of the day for five or more consecutive weeks. It may include facilities known as child care centers, nursery schools, day nurseries, and centers for the mentally retarded.

"Day Care Facility."

Exclusions.

"Family Day Care Home."

"Day Care Center."

License required —term of license —no fee. Section 2. **License required—term of license—no fee charged.** No person, group of persons, or corporation shall establish and maintain a day care facility for children unless licensed to do so by the state board of public welfare. The license shall be valid for one year. There shall be no fee for the license.

Standards for child care. Section 3. **Standards for child care.** The state board of public welfare shall prescribe and publish minimum standards for a license. In developing these standards the department shall seek the advice and assistance of the state board of health and superintendent of public instruction, representatives of day care facilities, specialists in child care, and representatives of parent groups who use the services of day care facilities. The standards may pertain to:

Standards may pertain to.

(a) character, suitability, and qualifications of applicant, and other persons directly responsible for the care of children

HeinOnline -- 1965 779 1965

(b) the number of individuals or staff required for adequate supervision and care of children in day care centers

(c) child care programs and practices essential to the protection of health, safety, development, and well-being of children

(d) adequate and appropriate admission policies

(e) adequacy of physical facilities and equipment

(f) general financial ability and competence of applicant to provide necessary care for children and maintain prescribed standards.

Fire safety—certification required by state fire marshal.

Section 4. **Fire safety—certification required by state fire marshal.** The state fire marshal shall adopt, promulgate, and enforce rules and regulations for the protection of children in care facilities from fire hazards, and arrange for such inspections and investigations as he deems necessary. Each applicant for a license to operate a day care center shall submit to the department of public welfare a certificate of approval indicating that fire safety rules and regulations have been met before a license can be issued, provided that in all non-fire-resistant homes two stories or more in height with ten or more children, automatic sprinkler systems acceptable to the State Fire Marshal shall be installed, with said State Fire Marshal to issue for the information and use of the Board, certificates of compliance with fire regulations and standards applicable to the facilities.

Automatic sprinkler system required —when.

Health protection —certificate required by state board of health.

Section 5. **Health protection—certificate required by state board of health.** The state board of health shall adopt rules and regulations for the protection of children in day care centers from the health hazards of overcrowding, food preparation and communicable diseases and arrange for such inspections and investigations as it deems necessary. Each applicant for a license to operate a day care center shall submit to the board of public welfare a certificate of approval that state board of health rules and regulations have been met before a license can be issued.

Licenses issued by the board of public welfare.

Section 6. **Licenses issued by the board of public welfare—rules and regulations—minimum requirements of licensees.** The state board of public welfare is hereby

HeinOnline -- 1965 780 1965

authorized and directed to issue licenses to persons to receive into a day care facility, children for care during the day or part of a day. This includes agencies now caring for such children who may desire to operate as a day care facility in the future. Application for a license shall be made to the state board of public welfare through the county department of public welfare in the county in which the applicant lives, on forms prescribed by the state board. Upon receipt of the application, the state board of county welfare department, shall, within a reasonable time, make an investigation to determine whether or not a license should be granted.

Rules and regulations.

The state board of public welfare shall prescribe the conditions upon which such licenses are issued, and will make such rules and regulations for the conduct of the affairs of such facilities as are consistent with the welfare of the children received, provided; however, that the said state board of public welfare must issue licenses to agencies meeting the following minimum requirements;

Minimum requirements.

(a) the applicant, his employees, and all those persons who will come in direct contact with the children shall be of good moral character

(b) the staff of the facility shall be sufficient in number to provide adequate supervision and care of the children admitted

(c) essential programs and practices carried on by the facility staff shall be developed and carried out with due regard for the protection of the health, safety, development, and well-being of the children

(d) applicant and staff shall be qualified by practical experience or education or training, to give good care and treatment to the children

(e) physical facilities shall be of a kind that can meet the minimum state standards to provide for the protection of the children from fire and health hazards

(f) intake records shall be kept on each child admitted for care. Public liability insurance and fire insurance shall currently be in force for the protection of the operator, his staff and the facility

(g) the applicant and staff will limit admissions to the maximum number indicated on the current license

HeinOnline -- 1965 781 1965

(h) the applicant will arrange for the necessary precautions to guard against communicable diseases.

Provisional license.

Section 7. **Provisional license.** The state board of public welfare may, in its discretion, issue a provisional license for a period of not more than six months if it finds that a substandard day care facility is attempting to meet the minimum standards. The requirement that a day care center shall be certified by the state fire marshal and the state board of health may not be waived.

License renewal.

Section 8. **License—renewal.** If a licensed day care facility desires to apply for a renewal of its license, a request for renewal shall be made in writing to the state board of public welfare ten days prior to the expiration of its license.

Supervision —inspection —consultation —records —reports.

Section 9. **Supervision — inspection — consultation — records — reports.** It shall be the duty of the board of public welfare or their authorized representative to make periodic visits to all licensed day care facilities to insure that minimum standards are maintained and to give consultation upon request to every licensee who desires to upgrade the services of his facility. It shall be the duty of the board or their authorized representative to assist applicants in meeting the minimum requirements. It shall be the duty of every applicant and every licensee to give right of entrance and inspection of premises to representatives of the board, at reasonable times, to keep and maintain such records as the board may prescribe, to permit inspection of these records, and to report to the board such facts as may be required on blanks furnished by the board.

License—denial.

Section 10. **License — denial — nonrenewal — revocation — hearing.** The board, after notice and opportunity for hearing to the applicant of licensee, is authorized to deny, suspend or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements established under this

Notice of hearing.

law. Such notice shall be effected by registered mail, or by personal service setting forth the particular reasons for the proposed action and fixing a date not less than thirty (30) days from the date of such mailing or service, at which the applicant or licensee shall be given an

Determination by board.

opportunity for a prompt and fair hearing. On the basis of any such hearing, or upon default of the applicant or

HeinOnline -- 1965 782 1965

licensee the board shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision revoking, suspending or denying the license or application shall become final thirty (30) days after it is so mailed or served, unless the applicant or licensee within such thirty (30) days' period, commences an action in the district court, pursuant to this section. The procedure governing hearings authorized by this section shall be in accordance with rules promulgated by the board with the advice of the advisory council. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless the decision is reviewed pursuant to this section. A copy or copies of the transcript may be obtained by any interested party on payment of the cost of preparing such copy or copies. Witnesses may be subpoenaed by either party.

Decision to become final—when.

Procedure.

Record.

Any applicant or licensee of the state aggrieved by the decision of the board after a hearing, may, within thirty (30) days after mailing or serving of notice of the decision as provided in this section, commence an action in the district court of the county in which the long term care facility is located or to be located, by the filing of a verified complaint against the board as defendant, and summons shall issue and all further proceedings be conducted as in the case of ordinary civil actions. The board shall, upon filing its answer, certify and file therewith in the Court wherein the action is pending a certified copy of the record and decision, including the complete transcript of the hearings on which the decision is based. Findings of fact by the board shall be conclusive unless substantially contrary to the weight of the evidence, or unless in conflict with law, but upon good cause shown the court may remand the case to the board to take further evidence, and the board may thereupon affirm, reverse or modify its decision. The court may affirm, modify or reverse the decision of the board and either the applicant or licensee or the board or state may apply for such further review by appeal or otherwise, as is provided by law. Pending final disposition of the matter the status quo of the applicant or licensee shall be preserved, except as the court otherwise orders in the public interest.

Action in district court by aggrieved party.

Certified copy of record and decision of board to be filed with court.

Findings of fact by board to be conclusive—exception.

Decision—further appeal.

HeinOnline -- 1965 783 1965

Violations—investigation.

Section 11. **Violations.** Whenever the board of public welfare is advised or has reason to believe that any person, group of persons, or corporation is operating a child care facility without a license, it shall make an investigation to ascertain the facts. If it finds that such child care facility is being, or has been, operated without a license, it may report the results of its investigation to the attorney general of this state or the county attorney of the county where the child care facility is being operated for prosecution and request that an injunction be issued against the facility until a license is issued. In addition to the foregoing, the state board of public welfare, or its authorized agent, may institute such action at law or in equity as may appear necessary to enforce compliance with any provision of this act, or to enforce compliance with any order, rule, or regulation of the board pursuant to the provisions of this act, or to obtain a judicial interpretation of any of the foregoing, and in addition to any other remedy, the board, under unanimous consent of all its members, may apply to the district court of the district wherein the action arises for relief by injunction, mandamus, or any other appropriate remedy in equity without being compelled to allege or prove that an adequate remedy at law does not otherwise exist, nor shall the board be required to give or post bond in any action to which it is a party, whether upon appeal or otherwise. All legal actions may be brought by or against the board in the name of Montana state board of public welfare, and it shall not be necessary in any action to which the board is a party, that such action be brought by or against the state of Montana on relation of the Montana state board of public welfare. The board shall have the power to institute action by its own attorney or counsel, but it shall have the right, if it deems advisable, to call upon any county attorney to represent it in the district court of the county in which the action is taken, or the attorney general to represent it on appeal to the supreme court of Montana, or it may associate its own counsel with either in any court.

Remedy for violation.

Other action.

Legal actions in name of.

Approved March 9, 1965.

CHAPTER 248

An Act Relating to State Fiscal Procedures and Certain Funds and Accounts; Amending Sections 84-1812(1),

HeinOnline -- 1965 784 1965

81-1502, 43-803, 46-1107, 59-1106, 3-1717, 3-2014, and 3-2016, R. C. M. 1947; and Repealing Section 84-1812(2), R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 5, Chapter 126, Laws of 1963, compiled as Section 84-1812(1), R. C. M. 1947, is amended to read as follows:

Proceeds of license taxes shall be used by highway commission.

"84-1812. *One percent (1%) of a*ll money received in payment of license taxes under the provisions of this act *shall be deposited in the state park account in the earmarked revenue fund. All other money received,* except that amount paid out of the state board of equalization's suspense account for gasoline tax refund shall be used and expended by the state high commission on the federal highway system of highways in this state selected and designated under the provisions of the federal aid act, approved July 11, 1916, and the federal highway act, approved November 9, 1921, and all amendments thereto, and on highways leading from each county seat in the state to said federal highway system of federal aid roads where such county seat is not on said system, and on such other roads as have been or may be authorized by the laws of Montana, for the collection and enforcement of this act, pursuant to the provisions of article XII, section 1 (b) of the constitution of the state of Montana; provided, that the total cost to the state for administration, dissemination of public information, and engineering on the federal aid work contemplated by this act shall not exceed for any fiscal year eight per centum (8%) of the total of state, federal aid and other available funds expended under the supervision of the state highway commission. It shall be the duty of the state highway commission, in expending such money, to carry forward construction from year to year, using the money expended through the matching up of federal aid allotments to Montana upon the said federal highway system of highways in the various parts of the state in accordance with the provisions of section 84-1817; provided that nothing in this act shall be construed to conflict with said federal aid highway acts and the rules by which they are administered. The state highway commission is authorized to enter into co-operative agreements with the national park service and the bureau of public roads for the purpose of maintaining national park approach roads in Montana.

Limitation on costs—8%.

Duty of state highway commission.

Not to conflict with federal-aid highway acts.

HeinOnline -- 1965 785 1965

Use of money credited to state park account.

Money credited to the state park account in the earmarked revenue fund shall be used only for the creation, improvement, and maintenance of state parks where motor boating is allowed. The legislative assembly hereby finds as a fact that of all the fuel sold in the state of Montana for consumption in internal combustion engines, not less than one per centum (1%) is used for propelling boats on waterways of this state."

Amending clause.

Section 2. Section 81-1502, R. C. M., 1947, is amended to read as follows:

Application for license to operate portable sawmill.

"81-1502. Whenever any person, firm or corporation desires to commence the operation of a portable sawmill located or to be located upon forest lands within the state of Montana, such person, firm or corporation shall make application to the state forester of the state of Montana in writing for a license to operate *the* portable sawmill. *The* application shall disclose to the state forester the name of the person, firm or corporation contemplating the operation of *the* sawmill, the location thereof by section, township and range numbers, the rated capacity of *the* sawmill and the approximate amount of stumpage to be cut at the proposed setting and the approximate date desired for the commencement of *the* operation. *The* application shall be accompanied by the payment of a fee of two dollars ($2.00), which is fixed as the license fee for the operation of any portable sawmill, to be credited to the *earmarked revenue fund, cooperative forest management account."*

Fee.

Amending clause.

Section 3. Section 43-803, R. C. M. 1947, is amended to read as follows:

Licensing of lobbyists—eligibility.

"43-803. (1) **Licenses—fees—eligibility.** Any person of adult age and good moral character who is a citizen of the United States and otherwise qualified under this act may be licensed as a lobbyist as herein provided. The secretary of state shall provide for the form of application for license. Such application may be obtained in the office of the secretary of state and filed therein. Upon approval of such application and payment of the license fee of ten dollars ($10.00) to the secretary of state, a license shall be issued which shall entitle the licensee to practice lobbying on behalf of any one or more principals. Each license shall expire on December 31 of each odd-numbered year. No application shall be disapproved

Fee.

HeinOnline -- 1965 786 1965

without affording the applicant a hearing which shall be held and decision entered within ten (10) days, of the date of filing of the application. The license fees collected by the secretary of state under this act shall be deposited by him in the state treasury.

Suspension or revocation of license.

(2) **Suspension or revocation of license.** Upon verified complaint in writing to the attorney general of the state of Montana charging the holder of a license with having been guilty of unprofessional conduct or with having procured his license by fraud or perjury or through error, the attorney general is hereby authorized to bring civil action in the district court for Lewis and Clark county, state of Montana, against the holder and in the name of the state as plaintiff to revoke the license. Hearing shall be held by the court unless the defendant-licensee demands a jury trial. The trial shall be held as soon as possible and at least twenty (20) days after the filing of the charges and shall take precedence over all other matters pending before the court. If the court finds for the plaintiff judgment shall be rendered revoking the license, and the clerk of the court shall file a certified copy of the judgment with the secretary of state. The licensing authority may commence any such action on his own motion.

Suspension of lobbying privileges.

(3) **Suspension of lobbying privileges.** No lobbyist whose license has been suspended or revoked and no person who has been convicted of a violation of any provision of this act shall engage in any lobbying until he has been reinstated to the practice of lobbying and duly licensed."

Amending clause.

Section 4. Section 46-1107, R. C. M. 1947, is amended to read as follows:

License fee for hide dealer or buyer.

"46-1107. Every hide dealer or buyer shall pay to the livestock commission a license fee of five dollars ($5.00) for each established place of business at which such hide dealer or buyer purchases or deals in hides, before engaging in, or conducting any business as such in the state of Montana, which license shall continue in force and effect for that calendar year. The moneys collected from such licenses shall be placed in the *earmarked revenue fund, livestock commission account.* The license must be renewed January 1 of each year commencing January 1, 1961."

HeinOnline -- 1965 787 1965

Amending clause.

Section 5. Section 59-1106, R. C. M. 1947, is amended to read as follows:

Costs allocable to administration of chapter.

"59-1106. All costs allocable to the administration of this chapter shall be charged to and paid to the *earmarked revenue fund, social security division account,* by each department of the state and by the participating divisions and instrumentalities and political subdivisions of the state pro rata according to their respective contributions."

Amending clause.

Section 6. Section 3-1717, R. C. M. 1947, is amended to read as follows:

Inspection fee for commercial fertilizers offered for sale.

"3-1717. (a) There shall be paid to the commissioner for all commercial fertilizers offered for sale, sold, or distributed in this state an inspection fee at the rate of fifteen cents (15¢) per ton: Provided that sales to manufacturers or exchanges between them are hereby exempted. *All* fees collected *under this section* shall be deposited in the state treasury to the credit of the *earmarked revenue fund and shall be used for the expenses of administering this act.* On individual packages of commercial fertilizer containing ten (10) pounds or less, there shall be no inspection fee. Where a person sells commercial fertilizer in packages of ten (10) pounds or less and in packages over ten (10) pounds, the inspection fee shall apply only to that portion sold in packages of over ten (10) pounds.

No fee—when.

Payment.

(b) Payment of the inspection fee shall be evidenced by a statement made in due form of law, of commercial fertilizer distributed, together with documents showing that fees corresponding to the tonnage were received by the commissioner.

Every registrant who distributes commercial fertilizer in this state shall:

Affidavit by distributor of commercial fertilizer —to contain.

File an affidavit semiannually within thirty (30) days after each January 1 and each July 1 of each year setting forth the number of net tons of commercial fertilizer distributed in this state during the preceding six-months' (6) period; and upon filing such statement shall pay the inspection fee at the rate stated in paragraph (a) of this section. If the tonnage report is not filed and the payment of the inspection fee is not made within fifteen (15) days after the date due, a collection fee amounting to ten (10) per cent (minimum ten dollars ($10.00)) of this

HeinOnline -- 1965 788 1965

amount due shall be assessed against the registrant, and the amount of fees due shall constitute a debt and become the basis of a judgment against the registrant."

Amending clause.

Section 7. Section 3-2014, R. C. M. 1947, is amended to read as follows:

Registration of commercial feed.

"3-2014. (a) Each commercial feed shall be registered before being distributed in this state; provided, however, that customer-formula feeds are exempt from registration. The application for registration shall be submitted to the commissioner on forms furnished by the commissioner and shall be accompanied by a fee of ten dollars ($10.00) for each commercial feed submitted for registration. Upon the request of the commissioner, each such registration shall be accompanied by a label or other printed matter describing the product, and shall include the information required by subparagraphs (2), (3), (4) and (5), of paragraph (a) of section 3-2015. Upon approval by the commissioner, a copy of the registration shall be furnished to the applicant. Once registered, the registration of a feed shall be renewed by December 31 of each year by payment of an annual fee of ten dollars ($10.00). Monies collected under the provisions of this section shall be deposited in the *state treasury to the credit of the earmarked revenue fund and shall be used for the expenses of administering this act.*

Application—fee.

Renewal.

Alternative listing of ingredients.

The commissioner may by regulation permit on the registration the alternative listing of ingredients of comparable feeding value, provided that the label for each package shall state the specific ingredients which are in such package.

Registered brand.

(b) A distributor shall not be required to register any brand of commercial feed which is already registered under this act by another person.

Changes in guarantee.

(c) Changes in the guarantee of either chemical or ingredient composition of a registered commercial feed may be permitted by the commissioner provided there is satisfactory evidence that such changes would not result in a lowering of the feeding value of the product for the purpose for which designed.

Refusal of registration.

(d) The commissioner is empowered to refuse registration of any application not in compliance with the provisions of the act and to cancel any registration subse-

HeinOnline -- 1965 789 1965

quently found not to be in compliance with any provisions of this act; provided, however, that no registration shall be refused or cancelled until the registrant shall have been given opportunity to be heard before the commissioner and to amend his application in order to comply with the requirements of this act."

Amending clause.

Section 8. Section 3-2016, R. C. M. 1947, is amended to read as follows:

Inspection fee for commercial feed.

"3-2016. (a) Each and every person who distributes commercial feed in this state to the ultimate consumer shall pay to the commissioner an inspection fee, based on the gross annual value of feed distributed in this state,

Fee schedule.

according to the following schedule:

Up to and including five hundred dollars ($500.00) gross annual value of feeds distributed.....$10.00.
Over five hundred dollars ($500.00) and up to and including one hundred thousand dollars ($100,000.00) gross annual value of feeds distributed.....$25.00.
Each and every twenty-five thousand dollars ($25,000.00) additional gross annual value of feeds distributed or fraction thereof, an additional inspection fee of....$10.00;

Exemption.

provided, however, that distribution of commercial feeds to manufacturers are hereby exempted if the commercial feeds so distributed are used solely in the manufacture of feeds which are registered. Monies collected under the provisions of this section shall be deposited in the state *treasury to the credit of the earmarked revenue fund and shall be used for the expenses of administering this act.*

(b) Every person, except as hereinafter provided, who distributes commercial feed in this state shall:

Filing of statement by distributor.

(1) File, not later than the last day of January of each year, a statement setting forth the gross annual value of feeds distributed in this state during the preceding calendar year; and upon filing such statement shall pay the inspection fee at the rate stated in paragraph (a) of this section. When more than one (1) person is involved in the distribution of a commercial feed, the person who distributes to the consumer is responsible for reporting the gross annual value of feeds so distributed and paying the inspection fee.

Records.

(2) Keep such records as may be necessary or required by the commissioner to indicate accurately the gross an-

HeinOnline -- 1965 790 1965

nual value of commercial feeds distributed in the state, and the commissioner or his authorized agent shall have the right to examine such records to verify statement of gross annual value of feeds distributed. Failure to make an accurate statement of the gross annual value of feeds distributed or to pay the inspection fee or to comply as provided for in this section shall constitute sufficient cause for the cancellation of all registrations on file for the distributor after a hearing as provided in this act, and the distributor shall be subject to the penalties set forth in section 3-2023."

Repealing clause.

Section 9. Section 1, Chapter 233, Laws of 1963, compiled as Section 84-1812(2), R. C. M. 1947, is repealed.

Approved March 9, 1965.

CHAPTER 249

An Act to Authorize School Boards of Trustees to Provide Transportation For Pupils Living Less Than Three Miles From School; Providing Standards for Vehicles and Drivers; and Providing a Fund to Account For Moneys Collected and Disbursed Under the Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Pupils living less than 3 miles from a public school may be transported by school bus—costs.

Section 1. The board of trustees of any school district or county high school is authorized to provide school bus transportation to pupils who live less than three (3) miles distant from a public school and for this purpose the board may make such charges of parents, guardians or other representatives of pupils as may be necessary to pay the costs of providing such transportation, providing, however, the trustees shall in making such agreements give preference to those children living the farthest from the school to be attended.

Buses upon which pupils may be transported.

Section 2. The board of trustees may allow such pupils to be transported on such school buses as may be regularly scheduled on state-approved school bus routes and which are not filled to approved capacity by pupils residing three (3) or more miles distant from a public school, or on such other school buses as may be designated for transportation in accordance with this act.

HeinOnline -- 1965 791 1965

Requirements of buses and drivers.

Section 3. All school bus vehicles and drivers utilized under the provisions of this act shall meet the minimum standards set forth in section 75-3308, R. C. M. 1947.

Transportation fund.

Section 4. The transportation fund of the school budget shall be utilized for the purpose of budgeting and accounting for all collections of charges and fees authorized by this act. Such moneys shall be accounted for separately from public moneys.

Approved March 9, 1965.

CHAPTER 250

An Act Requiring Two Red and Two Amber Flashing Lights on the Front and Rear of Each School Bus; Providing that Amber Lights Shall be Actuated Approximately Five Hundred Feet Before a School Bus Is Stopped to Receive or Discharge School Children; and Amending Sections 32-21-132, 32-2197, 32-2198, and 75-3308, R. C. M. 1947; Providing for an Effective Date of July 1, 1966.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 32-21-132, R. C. M. 1947, is amended to read as follows:

Emergency vehicle to have device capable of giving an audible signal.

"32-21-132. (a) Every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this act, be equipped with a siren, exhaust whistle or bell capable of giving an audible signal.

Emergency vehicle —signal lamps.

(b) Every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this act, be equipped with signal lamps mounted as high and as wide spaced laterally as practicable, which shall be capable of displaying to the front two (2) alternately flashing red lights located at the same level and to the rear two (2) alternately flashing red lights located at the same level, and these lights shall have sufficient intensity to be visible at five hundred (500) feet in normal sunlight.

School bus —signal lamps.

(c) *Every bus used for the transportation of school children shall, in addition to any other equipment and distinctive markings required by this act, be equipped with*

HeinOnline -- 1965 792 1965

signal lamps mounted as high and as widely spaced laterally as practicable, displaying to the front two (2) red and two (2) amber alternating flashing lights and to the rear two (2) red and two (2) amber alternating flashing lights. These lights shall have sufficient intensity to be visible at five hundred (500) feet in normal sunlight. The warning lights shall be of a type, and located on each bus, as prescribed by the state board of education and approved by the supervisor of the highway patrol.

Police vehicle.

(d) A police vehicle when used as an authorized emergency vehicle may but need not be equipped with alternately flashing red lights specified herein. The use of the signal equipment described herein shall impose upon drivers of other vehicles the obligation to yield right of way and stop as prescribed in sections 32-2175 and 32-2197."

Yielding of right of way.

Amending clause.

Section 2. Section 32-2197, R. C. M. 1947, is amended to read as follows:

Vehicle overtaking or meeting school bus which is stopped or preparing to stop.

"32-2197. (a) The driver of a vehicle upon a highway outside the corporate limits of any city or town upon meeting or overtaking from either direction any school bus which has stopped *or is preparing to stop* on the highway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus when there is in operation on said bus a visual signal as specified in section 32-21-132 and said driver shall not proceed until such school bus resumes motion, or is signaled by the school bus driver to proceed as the visual signals are no longer actuated.

Marking of school bus—lights.

(b) Every bus used for the transportation of school children shall bear upon the front and rear thereof plainly visible signs containing the words 'SCHOOL BUS' in letters not less than eight (8) inches in height, and in addition shall be equipped with visual signals meeting the requirements of section 32-21-132. *Amber flashing lights shall be actuated by the driver approximately one hundred and fifty (150) feet in cities, and approximately five hundred (500) feet in other areas before the bus is stopped to receive or discharge school children. Red lights* shall be actuated by the driver of said school bus whenever but only whenever such vehicle is stopped on the highway for the purpose of receiving or discharging school children.

School bus used for other purposes.

(c) When a school bus is being operated upon a highway for purposes other than the actual transportation of

HeinOnline -- 1965 793 1965

children either to or from school all markings thereon indicating 'SCHOOL BUS' shall be covered or concealed.

Vehicle meeting or passing a bus on a different roadway.

(d) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway."

Amending clause.

Section 3. Section 32-2198, R. C. M. 1947, is amended to read as follows:

Operation of flashing lights on school bus—unlawful when.

"32-2198.. It shall be unlawful to operate any flashing warning signal light on any school bus except when any said school bus *is preparing to stop or* is stopped on a highway for the purpose of permitting school children to board or alight from said school bus."

Amending clause.

Section 4. Section 75-3308, R. C. M. 1947, is amended to read as follows:

Rules and regulations for school buses and transportation of children.

"75-3308. (1) That the state board of education, by and with the advice of the supervisor of the Montana highway patrol and the superintendent of public instruction, shall adopt and enforce regulations not inconsistent with the motor vehicle code and the minimum standards for school buses, adopted by the national commission on safety education to govern the design, construction and operation of all school buses used for the transportation of school children when owned and operated by any school district or privately owned and operated under contract with any school district in this state and such regulations shall by reference be made a part of any such contract with a school district.

Persons subject to regulations.

(2) Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to such regulations.

Regulations to include provisions.

(3) These regulations shall include provisions that no person shall drive or operate, or be employed or permitted to drive or operate, any school bus who has not received and filed with the county superintendent of schools a certificate from the board of trustees of the school district for which the school bus is to be driven or operated, certifying the following:

HeinOnline -- 1965 794 1965

a. That he is at least twenty-one (21) years of age.

b. That he is of good moral character.

c. That he is the holder of a chauffeur's license.

d. That he has filed with the board of trustees a satisfactory physical examination signed by a licensed physician in the state of Montana on a blank provided by the state board of education.

"Approved school bus."

(4) The term 'approved school bus' shall mean every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated and under contract for transportation of children to or from school.

School bus markings.

(5) Every approved school bus used for the transportation of school children shall bear upon the front and rear thereon a plainly visible sign containing the words 'school bus' in letters not less than eight (8) inches in height. When a school bus is being operated upon a highway for purposes other than actual transportation of children either to or from school or for school functions, all markings thereon indicating 'school bus' shall be covered or concealed.

Standards and specifications of lighting equipment on school buses.

(6) The Montana state board of education is authorized to adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses, consistent with the provisions of this act, but supplemental thereto; except that such standards and specifications may designate and permit the use of flashing warning lights on school buses for the purpose of indicating when children are boarding or alighting from any said bus. Such standards and specifications shall correlate with and, so far as possible, conform to the specifications then current as approved by the society of automotive engineers.

Operation of flashing warning signal lights—unlawful when.

It shall be unlawful to operate any flashing warning signal light on any school bus except when any said school bus *is preparing to stop or* is stopped on a highway for the purpose of permitting school children to board or alight from said school bus."

Effective July 1, 1966.

Section 5. This act shall be in full force and effect from and after July 1, 1966.

Approved March 9, 1965.

HeinOnline -- 1965 795 1965

CHAPTER 251

An Act to Amend Section 81-1702.2, Revised Codes of Montana, 1947, Which Provides For the Grounds Upon Which the State Board of Land Commissioners Has Power to Terminate Oil and Gas Leases Issued by it; Providing That The Commissioner of State Lands Shall Make Biennial Reports to the Legislative Assembly on Status of Oil and Gas Leases; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing For the Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 81-1702.2 of the Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Power to terminate oil and gas lease —grounds.

"81-1702.2. **Power to terminate lease—grounds.** In each and every oil and gas lease hereafter granted by the state under Chapter 17 of Title 81 of the Revised Codes of Montana, 1947, and acts amendatory thereto, there shall be reserved unto the state board of land commissioners full power and authority to declare termination of the lease at the end of the second year or any subsequent year of the primary term of the lease upon failure

Commencement of drilling well or pay delay drilling penalty.

of lessee to either (a) commence the drilling of a well for oil and gas upon the leased premises or (b) pay a delay drilling penalty as follows: for the sixth year of such lease one dollar and twenty-five cents ($1.25) per acre per year, and for the remainder of the primary term of the lease such amount per acre per year as said board may, in its discretion, determine; notice of such determination shall be given to the lessee, and if the lessee shall apply for a hearing thereon within ten (10) days after receipt of such notice, the determination shall become final only after such hearing has been held; such annual delay drilling penalty to be paid each year in advance;

Drilling—necessary depth.

provided that if a well for oil and gas is commenced, the drilling of such well shall be prosecuted with due diligence and dispatch to such depth as is necessary to make a reasonable test for oil or gas; provided, further, that

First well a dry hole—second hole not commenced before anniversary of lease.

should the first drilled be a dry hole, then, and in that event, if a second well is not commenced on the land covered by the lease on or before the next anniversary of the lease following the completion of said well said lease may be terminated by the state board of land

HeinOnline -- 1965 796 1965

commissioners unless the lessee, on or before such anniversary, shall resume the payments of penalties in the amounts hereinabove provided; and upon the resumption of the payment of such delay drilling penalties and their continued payment, said lease shall continue in force during the primary term thereof, as though there had been no interruption in said delay drilling penalty payments."

Report to legislative assembly.

Section 2. Each biennium while this act is in effect, the commissioner of state lands shall report in writing to each legislative assembly, before the tenth legislative day, the status of all oil and gas leases on state lands as of the close of the preceding biennium. Such report shall, for each year of the biennium, include at least the following:

Report to include.

(a) The total number of acres of state lands under oil and gas lease;

(b) The total income for each year of the biennium from such leases, showing separately the average amounts per leased acre of bonuses, annual rentals, and nondrilling penalty payments, when applicable;

(c) The number of acres and total income under producing leases;

(d) The number of acres newly leased;

(e) The number of acres for which existing leases were renewed;

(f) The number of acres for which leases were dropped or terminated;

(g) The percentage of leases and of acres leased that were dropped or terminated after the first year of the lease term, after the second year of the lease term, and so continuing for each year of the lease term; and

(h) Comparative figures in each of the foregoing categories for each year of the four preceding bienniums.

Repealing clause.

Section 3. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 4. This act shall be in full force and effect from and after the date of its passage and approval.

Approved March 9, 1965.

HeinOnline -- 1965 797 1965

CHAPTER 252

An Act Enabling the State of Montana to Accept Federal Facilities, Installations, Lands or Properties; Providing For an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

State board of examiners shall have power to accept donation of federal installation —title vested in state.

Section 1. The state board of examiners shall have the power on behalf of the state to accept donations of federal installations, facilities, lands or properties. All title to the installations or facilities shall be vested in the name of the state for its use; provided however, that this act shall not be construed to limit, reduce or supersede the provisions of Sections 82-3101 through 82-3104, R. C. M. 1947.

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved March 9, 1965.

CHAPTER 253

An Act to Amend Section 59-1110, R. C. M., 1947, Relating to the Payment of the Employer's Tax Established by the Federal Social Security Act; Providing That Such Tax Shall be the First Obligation Against and Paid From State Funds Received by School Districts and County High Schools.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 59-1110, R. C. M., 1947, is amended to read as follows:

Eligibility of staff and teachers for coverage under Federal Social Security Act.

"Section 59-1110. **Eligibility of staff and teachers—payroll deductions.** Pursuant to such certification, the staff and teachers of any such district shall be eligible for coverage under the provisions of the Federal Social Security Act, and the fiscal officer of such district shall thereafter collect the contributions required under the Federal Social Security Act, section 218, by payroll deduction from the staff and teachers and from the school district as employer; and said funds and accounts shall be deposited with the state board of equalization, or such other agency as may be designated by the legislature to

HeinOnline -- 1965 798 1965

administer Social Security Act coverage in this state, and held in the contributions' fund as provided by sections 59-1101 to 59-1108. *For the purposes of this act, the contributions with respect to services, equivalent to the employer's tax established by the Federal Social Security Act shall be the first obligation against any state funds received for school support by any school district, high school district or county high school, and shall first be paid therefrom."*

First obligation against state funds.

Approved March 9, 1965.

CHAPTER 254

An Act Defining Air Pollution; Declaring Air Pollution a Public Nuisance; And Designating the State Board of Health of the State of Montana as the Air Pollution Study and Research Agency For the Receipt and Administration of Grants and Gifts For Air Pollution Research or Survey Programs.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Air pollution is the presence in the outdoor atmosphere of substances in quantities which are injurious to normal human, plant or animal life or to property which unreasonably and repeatedly interfere with the enjoyment of life and property; provided that all aspects of employer-employee relationship as to health and safety hazards are excluded.

Air pollution.

Exclusion.

Section 2. The discharge into the outdoor atmosphere of substances in quantities which are injurious to normal human, plant or animal life or to property is a public nuisance.

Public nuisance.

Section 3. The State Board of Health of the State of Montana is designated as the "Study and Research Agency" to accept, receive and administer grants or other funds or gifts, on behalf of the State of Montana, given by the federal government under any federal law, or by any person, firm, corporation or association for the purpose of air pollution research or survey programs. Such funds shall be deposited with the State Treasurer and held and disbursed by him to the State Board of

State Board of Health designated "Study and Research Agency" —acceptance of federal funds for research.

HeinOnline -- 1965 799 1965

Health to be used only for the purposes for which they are contributed.

Approved March 9, 1965.

CHAPTER 255

An Act to Amend Section 71-209 of the Public Welfare Act Relating to Submission of a Budget and to Amend Section 71-501 of the Public Welfare Act Relating to the Age of Eligibility For Dependent Children.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 71-209, R. C. M., 1947, be amended to read as follows:

State administrator to be executive and administrative officer of state department of public welfare—budget estimates.

"71-209. **Powers and duties of the state administrator.** (a) The administrator shall be the executive and administrative officer of the state department of public welfare and shall act as secretary of the state board. Before each regular biennial meeting of the legislative assembly he shall prepare and submit to the state board of public welfare for its consideration budget estimates of all funds required to be appropriated by the legislative assembly for the operation of the department during the two next ensuing fiscal years as fiscal years are defined by section 59-701. These budget estimates shall contain all information necessary for their consideration. After these budget estimates have been considered by the state board of public welfare, the administrator shall submit these budget estimates to the state *budget director* with requests for appropriations.

Report to governor to contain.

After the close of the fiscal year in each even-numbered calendar year, the state administrator shall prepare a report to the governor of the state for the two preceding fiscal years, showing the operations of the department, furnishing information about all its principal activities giving the source and amounts of all funds received and the purposes for which they have been expended. It shall contain such statistical information and supplementary data as the administrator may deem pertinent or the governor may request. The report shall also contain such recommendations for legislation as experience may indicate to be desirable. The report shall be printed and sub-

HeinOnline -- 1965 800 1965

mitted to the governor not later than October 15. The administrator shall prepare such interim reports as he may deem proper or the governor may require.

State administrator to appoint personnel and supervise staff—personnel to be residents.

(b) In conformity with the merit system governing the selection and entire status of officers and employees in the state department of public welfare and in all county departments of public welfare in the state of Montana, adopted by the state board of public welfare and approved by the social security board, the state administrator shall appoint such other state department and supervisory field personnel as may be necessary for the efficient performances of the activities of the state department. The administrator shall also supervise the appointment, dismissal and entire status of the public assistance staff attached to the county boards of public welfare in accordance with the merit system. All state department and county department personnel shall be legal residents of the state of Montana, unless it is impossible to find residents of the state possessing qualifications required by the merit system.

Amending clause.

Section 2. That section 71-501, R. C. M., 1947, be amended to read as follows:

"Dependent child."

"71-501. **'Dependent child' defined.** The term 'dependent child' means a child *(A)* under the age of eighteen (18), *or (B) under the age of twenty-one (21) who is a student under the regulations prescribed by the state welfare department and such children (A and B above)* who *have* been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, nephew, niece, or first cousin, in a place of residence maintained by one or more of such relatives as his or their own home.

Aid to dependent children not denied —when.

Aid to dependent children shall not be denied to or for the care of children who would otherwise be entitled to such aid under the laws of the state of Montana by the fact that such child is living in the home of his or her father, who is in the opinion of the county board of public welfare of the appropriate county unemployable nor by the fact that such child is living in the home of a head of a household who is, at the time, receiving job training under the laws of the

HeinOnline -- 1965 801 1965

state of Montana; nor shall the benefits which would otherwise accrue to such child for aid to dependent children under the laws of the state of Montana be reduced by reason of either such cause."

Effective immediately.

Section 3. This act shall be in full force and effect from and after the date of its passage and approval.

Approved March 9, 1965.

CHAPTER 256

An Act to Amend Section 53-101, R. C. M. 1947, as Amended by Chapter 208 of the Session Laws of the Thirty-fifth Legislative Assembly, 1957, Relating to Duties and Records of the Registrar of Motor Vehicles by Providing a More Extensive Record in the Case of Dealers; to Amend Section 53-102, R. C. M. 1947, as Amended by Chapter 122 of the Session Laws of the Thirty-Seventh Legislative Assembly, 1961, Relating to Penalty for Violation and Enforcement of Provisions by Deleting Section 53-118 from the Penalty Provision Thereof; to Amend Section 53-118, R. C. M. 1947, as Amended by Chapter 245 of the Session Laws of the Thirty-fourth Legislative Assembly, 1955, Relating to Applications for Dealers Licenses by Providing for Qualification of Dealers for Licensing and Providing a Penalty for Violation of the Section; to Amend Section 53-133, R. C. M. 1947, Relating to Definitions With Regard to Motor Vehicle Registration by Changing the Definition of Dealer to Conform with Section 53-118; Repealing Section 53-138, R. C. M. 1947; Providing a Savings Clause; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 53-101, R. C. M. 1947, as amended by chapter 208 of the session laws of the thirty-fifth legislative assembly, 1957, is amended to read:

Warden to be registrar of motor vehicles.

"53-101. **Duties of registrar of motor vehicles—records.** 1. The warden of the state penitentiary shall be, and is hereby constituted the registrar of motor vehicles, trailers and semitrailers, of motor and accessories

HeinOnline -- 1965 802 1965

dealers and of operators and chauffeurs, and as such it shall be his duty to keep a record as hereinafter specified of all motor vehicles, trailers and semitrailers of every kind, and certificates of registration and ownership thereof, of all dealers in motor vehicles and automobile accessories and of operators and chauffeurs.

Duty to keep records.

2. In the case of motor vehicles, trailers and semitrailers, the record shall show the following: Name of owner, residence by town and county, business address, name and address of conditional sales vendor, mortgagee or other lien holder and amount due under contract or lien, manufacturer of car, manufacturer's designation of style of car or vehicle, identifying number, year of manufacture, character of motive power and shipping weight of car as shown by the manufacturer and the distinctive license number assigned such car or vehicle; and, if a truck or trailer, the number of tons capacity, and such other information as may from time to time be found desirable.

What records to contain.

3. The registrar shall file applications for registration received by him from the county treasurers of the state and register the vehicles therein described and the owners thereof in suitable books or on index cards, as follows:

Applications to be filed—how.

(a) Under distinctive license number assigned to vehicle by the county treasurers.

(b) Alphabetically under name of owners.

(c) Numerically under make and identifying number of vehicle.

(d) Such other index of registration as registrar shall deem expedient.

4. In the case of dealers the records shall show the *information contained in the application for dealer's license as required by section 53-118, as well as the distinctive license number assigned to the dealer.*

Dealers' records.

5. The registrar of motor vehicles shall qualify by giving a bond of twenty-five thousand dollars ($25,000.00), providing for the faithful performance of his duty. He shall appoint such deputies, subordinate officers, clerks, investigators and other employees as may be necessary to carry out this act, providing there be se-

Bond by registrar.

Deputies and other help.

HeinOnline -- 1965 803 1965

Inmates as clerical help.

Salaries.

lected as many of the clerical help from the inmates of the state prison as the registrar determines to be possible. The salaries of all such appointees shall be fixed by the registrar of motor vehicles as authorized by the state board of examiners, with respect to salaries of other subordinate state officers and employees.

Books and records in custody of registrar at state penitentiary.

Destruction after 5 years.

6. All office equipment, books, files and records belonging to the motor department shall be in the care and general custody and control of the registrar of motor vehicles at the state penitentiary. In order to prevent an accumulation of records and files which shall have ceased to be of any value the registrar of motor vehicles shall have the authority and it shall be his duty to destroy all correspondence, motor card and application card records after the expiration of five (5) years from the date thereof, and all conditional sales contracts and chattel mortgages and records pertaining thereto after the expiration of five (5) years after the date the same have ceased to be liens on the motor vehicles described therein.

Short-wave radio authorized.

7. The registrar may establish and maintain a short-wave radio station in order to report motor vehicle registration information to the highway patrol, sheriffs, and to chiefs of police of each incorporated city of the state who are able to communicate with such short-wave radio station.

Public records.

8. All such records shall be open to inspection during all reasonable business hours and the registrar of motor vehicles shall furnish any information from said records upon payment by the applicant of the cost of transcribing the information requested."

Amending clause.

Section 2. That section 53-102, R. C. M. 1947, as amended by chapter 158 of the session laws of the thirty-seventh legislative assembly, 1961, is amended to read:

Violation—penalty.

"53-102. **Penalty for violations—enforcement of provisions.** The violation of any of the provisions of sections 53-101, 53-106, 53-106.1, 53-106.2, 53-106.6, 53-107, 53-108, 53-109, 53-114, 53-115, 53-116, 53-117, 53-119, 53-120 and 53-121, shall constitute a misdemeanor and shall be punishable by a fine of not exceeding twenty-five dollars ($25.00). Nothing herein contained shall prevent the prosecution of a person for an offense committed under any other law.

HeinOnline -- 1965 804 1965

Duty of peace officers.

It is hereby made mandatory upon all police and peace officers of the state, of the counties of the state, and of towns, cities and villages to carry out the provisions of sections 53-101, 53-106, 53-106.1, 53-106.2, 53-106.6, 53-107, 53-108 and 53-109, and sections 53-114 to 53-121."

Amending clause.

Section 3. That section 53-118, R. C. M. 1947, as amended by chapter 245 of the session laws of the thirty-fourth legislative assembly, 1955, is amended to read:

Application for dealer's license —form.

"53-118. **Application for dealer's license.** Every *person, firm, corporation, or association who, for commission or profit, engages in the business of buying, selling, exchanging or acting as a broker of* new motor vehicles, used motor vehicles, trailers, *or* semitrailers *and qualifies under subparagraph (f) of this section,* shall cause to be filed, by mail or otherwise, in the office of the registrar of motor vehicles, a verified application for *licensing* as a dealer on a blank to be furnished by the registrar *of motor vehicles* for that purpose, and containing the information therein required. *The application and all of the information therein contained shall be verified by the sheriff of the county in which the business is to be conducted, as designated in subparagraph (b) below. A fee of two dollars ($2) shall be paid to the sheriff for such verification.* Each application must be accompanied by the *license* fee hereinafter named. Dealers *license* must be renewed and paid for annually, and an application for *relicensing* must be filed not later than January first of each year. *To qualify for licensing and the issuance and use of 'D,' 'UD,' or 'DTR' plates, as hereinafter provided, the applicant must furnish the following information and qualify under the following provisions:*

Verification.

Fee.

Information and qualification.

(a) The name under which the business is conducted;

(b) Location of premises (street, address, city, county and state) where records are kept, sales are made and stock of motor vehicles displayed;

(c) Name and address of all owners or persons having an interest in the business; provided, however, that in the case of a corporation, the names and addresses of the president and secretary thereof will be sufficient;

(d) Name and make of all vehicles handled, if factory franchised or selling under a written agreement with a manufacturer, importer or distributor;

HeinOnline -- 1965 805 1965

(e) Whether or not used vehicles are handled exclusively;

(f) A certificate to the effect that the applicant is a bona fide dealer in motor vehicles, trailers or semitrailers; and that the applicant if a dealer in new motor vehicles, is recognized by a manufacturer, importer or distributor as a dealer in particular makes of new motor vehicles;

(g) Other information required by the registrar to efficiently administer this law.

Bond.

The applicant for a dealer's license shall also file with his application a good and sufficient bond in the sum of one thousand dollars ($1,000.00), and the bond shall be conditioned that the applicant shall conduct his business in accordance with the requirements of the law. All bonds shall run to the state of Montana and shall be approved by the registrar of motor vehicles and filed in his office

Permanent building and dealer's franchise.

The registrar of motor vehicles shall not register or license as a dealer any applicant for the sale of new motor vehicles at retail unless such applicant owns, leases or rents a permanent building wherein he shall conduct his business and who has a dealers franchise from a manufacturer of motor vehicles. A private residence, tent, or temporary building is not a sufficiently permanent place of business within the meaning of this section. The registrar of motor vehicles shall not register or license any applicant as a dealer in used cars unless such applicant furnishes sufficient evidence to the registrar that he has a building or lot to provide display of merchandise, a sign indicating the firm name and headquarters as the principal place of the business.

Fee.

Upon making such application, the applicant shall pay to the registrar of motor vehicles, in addition to the fees required of dealers under the provisions of section 53-122, a fee of five dollars ($5). Upon receipt of the application, fee and bond, as provided above, the registrar of motor vehicles shall examine the application, and may, prior to issuing a license, make individual investigation of the truth of the statements contained in the application. If the registrar of motor vehicles is satisfied that the applicant qualifies for the issuance of a dealer's license under the provisions of this act, he may thereupon issue the same.

Investigation.

HeinOnline -- 1965 806 1965

Record of business dealings.

Every dealer licensed under this section shall keep a book or record of the purchase, sale or exchange or receipt for the purpose of sale, of any used vehicle, a description of such vehicles, together with the name and address of the seller, of the purchaser, and of the alleged owner or other person from whom such vehicle was purchased or received, or to whom it was sold or delivered, as the case may be. Such description in the case of motor vehicles shall also include the engine number, if any, the maker's number, if any, chassis number, if any, and such other numbers or identification marks as may be thereon, and shall also include a statement that a number has been obliterated, defaced or changed, if such is the fact. In the case of a trailer or semitrailer, the record shall include the manufacturer's number and such other numbers or identification marks as may be thereon. He shall also have in his possession a duly assigned certificate of title from the owner of said motor vehicle in accordance with the provisions of another section of this act, from the time when the motor vehicle is delivered to him until it has been disposed of by him.

Trailers.

Certificate of title.

Assignment of license number —license plates.

Upon the *licensing* of a dealer as a new motor vehicle dealer, used motor vehicle dealer, or trailer or semitrailer dealer, the registrar of motor vehicles shall assign to such dealer a distinctive serial *license* number as a dealer and furnish every *qualified* dealer in motor vehicles with not less than two (2) sets of number plates, and as many more as the fee the dealer pays entitles the dealer to, which number plates shall be similar to number plates furnished to owners of motor vehicles but shall bear thereon, in addition to the serial number assigned such dealer, the letter 'D' if the dealer sells new motor vehicles (including trucks and trailers) or new and used motor vehicles (including trucks and trailers); the letters 'UD' if the dealer sells used motor vehicles (including trucks and trailers) only; and the letters 'DTR' if the dealer sells trailers and/or semitrailers (new or used) only. Only new motor vehicle dealers' license plates bearing the letter 'D' shall be assigned if both new and used motor vehicles (including trucks and trailers) are sold, and only one *license* fee shall be required of any one dealer. *Dealers properly licensed under this section are authorized to use and display,* dealer's license plates on any motor vehicle held for sale or used principally in the conduct of the dealer's business in selling, *or demonstrating motor ve-*

Use of dealer's license plates.

HeinOnline -- 1965 807 1965

Limitation of use.

hicles. No dealer's license plate shall be used or displayed on vehicles normally used exclusively for hire or for purposes not incident to the business of a motor vehicle dealer. If it shall appear to the satisfaction of the registrar of motor vehicles, *from information furnished to him by the sheriff or any other law enforcement officer,* that any such dealer *has been improperly licensed,* has used the dealer's license in a manner other than the one permitted above, *or is not qualified as a dealer under the requirements of this section,* the registrar of motor vehicles may revoke such dealer's license. *No person, firm, corporation or association shall, for commission or profit, engage in the business of buying, selling, exchanging or acting as a broker of new motor vehicles, trailers or semitrailers unless duly licensed in compliance with this section.* Any *person* violating the provisions of this section shall be guilty of a misdemeanor and subject to a fine of not less than *fifty ($50.00) dollars* and not more than *three hundred ($300.00) dollars. For the purposes hereof, every sale of a motor vehicle in violation of the provisions of this section shall be deemed a separate offense."*

Improper licensing.

Licensing requirement.

Violation—penalty.

Each sale a separate offense.

Amending clause.

Section 4. That section 53-133, R. C. M. 1947, is amended to read:

Definitions.

"53-133. **Definitions.** The words and phrases used in this act shall be construed as follows, unless the context may otherwise require:

"Motor vehicle."

a. The words 'motor vehicle' shall include all vehicles which are self-propelled, except road rollers, traction engines and railroad cars, farm tractors, and motor cars run upon stationary rails or tracks.

"Motorcycle."

b. The term 'motorcycle' shall mean a motor vehicle having not more than three (3) wheels in contact with the ground and a saddle on which the operator sits astride, or a platform on which he stands, and bicycles having a motor attachment thereto and a driving wheel in contact with the ground, in addition to the wheels of the vehicle itself, but a motorcycle may carry one or more attachments and a seat for the conveyance of a passenger.

"Motor truck."

c. The term 'motor truck' shall include all motor vehicles designed or used for the transportation of commodities, merchandise, produce, freight or animals.

"Trailer."

d. The term 'trailer' shall include every vehicle without motive power, designated to carry property or passen-

HeinOnline -- 1965 808 1965

gers wholly on its own structure and to be drawn by a motor vehicle.

"Semitrailer." e. The term 'semitrailer' shall include every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

"Owner." f. The term 'owner' shall include any person, firm, association or corporation owning or renting a motor vehicle, or having the exclusive use thereof, under lease or otherwise, and shall also include a contract vendee.

"Dealer." g. The term 'dealer' shall mean and include any person, firm, *association,* or corporation engaged in whole or in part in the business of buying, selling, *exchanging, or acting as a broker of* either new or used motor vehicles, or both, and who *is qualified for issuance of a dealer's license under section 53-118,* and no person, firm, *association* or corporation shall be issued a dealer's license by the registrar of motor vehicles unless they qualify as a dealer defined herein. *The term 'dealer' does not include the following: (1) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction; or (2) employees of such persons when engaged in the specific performance of their duties as such employees; or (3) public officers while performing or in the operation of their duties. A* dealer *dealing in used cars* only shall deliver to the buyer on completion of sale a transferable title, and shall purchase a Montana store license.

"Dealer" not to include.

"Trailer dealer." h. 'Trailer dealer' shall mean and include any person, firm or corporation engaged in whole or in part in the business of buying or selling trailers or semitrailers with facilities for displaying one or more trailers or semitrailers.

"Vehicle." i. The term 'vehicle' shall include any motor vehicle as herein defined.

"Used motor vehicle." j. The term 'used motor vehicle' shall include any motor vehicle which has been sold, bargained, exchanged, given away or title transferred from the person who first took title to it from the manufacturer or importer, dealer or agent of the manufacturer or importer, and so used

HeinOnline -- 1965 809 1965

as to have become what is commonly known as 'second hand' within the ordinary meaning thereof.

"Manufacturer." k. The term 'manufacturer' shall include any person, firm, corporation or association engaged in the manufacture of any motor vehicles, trailers, or semitrailers as a regular business. *Dealer shall deliver, under oath, a notarized certificate with any used motor vehicle, stating the full name and last known address of the previous owner of said motor vehicle, and state where the motor vehicle* was last *registered."*

Repealing clause. Section 5. Section 53-138, R. C. M. 1947, is repealed.

Severability clause. Section 6. If any clause, sentence, paragraph or part of this act shall be adjudged by any court of competent jurisdiction to be invalid or inoperative, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, paragraph or part directly adjudged to be invalid or inoperative.

Repealing clause. Section 7. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 9, 1965.

CHAPTER 257

An Act to Amend Sections 81-304, 81-402, 81-413, 81-421, 81-502, 81-802, 81-903, 81-915 and 81-919, R. C. M. 1947, Providing for the Exchange of State Lands and the Validation of Prior Action of the State Board of Land Commissioners; Providing the Commissioner of State State Lands May Authorize a Lease on a Basis Other Than Crop Share in Certain Cases; Providing for the Determination by the Commissioner of State Lands of the Highest and Best Use of Certain Lands, Improvements by Lessee on State Lands, the Terms and Renewal of Coal Mining Leases of State Lands, Granting of Easements in State Lands, Terms in Sale of State Lands, State Lands Not Subject to Sale, and Settlement for Improvements by Lessee on State Lands Sold; Repealing Sections 81-417, 81-432, 81-433.1, and 81-435, R. C. M. 1947.

HeinOnline -- 1965 810 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 81-304, R. C. M. 1947, is amended to read as follows:

Amending clause.

"81-304. The state board of land commissioners of the state of Montana is hereby authorized and empowered to enter into contracts or agreements with the United States, or any department thereof having jurisdiction for the waiving and relinquishment to the United States of any and all rights of the state of Montana in and to sections sixteen (16) and thirty-six (36) of any township and to any other sections of state lands, provided that the state of Montana shall in lieu of the rights so waived and relinquished receive from the United States other lands of equal or greater value. *The amount of state land relinquished under this section in any one year shall not exceed six sections.*

State board of land commissioners authorized to contract with United States—criteria.

Limitation.

The state board of land commissioners of the state of Montana is hereby authorized to accept on behalf of the state of Montana title in fee simple to any land owned by a county in the state of Montana and to convey in exchange therefor state owned land of approximately the same area and of a value not higher than the land received from the county whenever such exchange will result in consolidating the state owned lands into more compact bodies.

Exchange of state land for that of a county.

All contracts and agreements heretofore entered into between the state board of land commissioners and the United States, or any department thereof, waiving and relinquishing the rights of the state of Montana to sections sixteen (16) and thirty-six (36) in any township in this state, and the selection of lands in lieu or those so relinquished by the state are hereby ratified, confirmed and validated. *The land received from the United States, under this provision, must be located in the same county as the relinquished lands, and the present lessees or permittees must be recognized for the continuance of their use of the land on such terms as may be required by the respective agencies."*

Ratification clause—contracts with United States.

Section 2. Section 81-402, R. C. M. 1947, is amended to read as follows:

Amending clause.

"81-402. (1) Under the general direction and control of the state board of land commissioners, the commission-

Commissioner shall lease lands open to grazing.

HeinOnline -- 1965 811 1965

er shall lease all agricultural and grazing lands and all town and city lots open to leasing upon proper application, provided that, as to agricultural lands, all leases shall be continued or made upon a crop share rental basis of not less than one-four (¼) of the annual crops to the state, or the usual landlord's share prevailing in the district, whichever is greater.

Rental basis.

Rental basis—other than crop share.

(2) In unusual cases the *commissioner* may authorize a lease upon other basis than crop share, but in all such unusual cases the *rental shall at least equal the value of the usual landlord's share prevailing in the district, and the commissioner* shall set forth in the *records* the unusual conditions of the case and the rental to be charged.

Rental rate—terms.

(3) *T*he rental rate for all state grazing lands leased and to be leased shall be based upon the appraised animal-unit-month carrying capacity of the land as provided in section 81-433, R. C. M. 1947, as amended, and provided further that, as to town and city lots owned by the state, the fair rental value thereof shall be determined from time to time under the direction of the commissioner and with the approval of the state board of land commissioners and record made thereof, and such town or city property may be leased at its current appraised rental value for terms of not to exceed five (5) years.

Condition to lease.

(4) All leases of agricultural or grazing lands, or town or city lots shall be upon condition that the state board of land commissioners may in its discretion, offer said land for sale at any regular public sale of state lands held in the county where the land is situated, upon the same terms, and in the same manner as land not under lease."

Amending clause.

Section 3. Section 81-413, R. C. M. 1947, is amended to read as follows:

Lands to be leased in compact tracts.

Determination of rental for grazing or agricultural purposes.

"81-413. All lands are to be leased in as compact bodies as possible and care shall be taken not to separate parts of any section from the section lines or public highways or from any available water supply, or in such form as to make it more difficult to lease the remaining state lands in the section in which they are located. In case there are applications or bids for renting certain land for grazing purposes and also applications or bids for renting the same land for agricultural purposes, *an inspection of the*

HeinOnline -- 1965 812 1965

land shall be made by the commissioner or his field agent at the earliest practical opportunity and determination made, based on his findings, of the highest and best use which can be made of the land or portions thereof, and any lease of said land entered into subsequent to such applications or bids shall be such as to return to the state revenue commensurate with such highest and best use."

Amending clause.

Section 4. Section 81-421, R. C. M. 1947, is amended to read as follows:

Improvements by lessee.

"81-421. A lessee of state lands shall have the right to place upon the lands leased by him, *a reasonable amount of improvements directly related to conservation of the land or necessary for proper utilization of the land* which improvements may consist of fences, cultivation and improvement of the land itself, irrigation ditches, sheds, wells and reservoirs, and similar improvements. Whenever another person becomes the lessee of such lands, he shall pay to the former lessee the reasonable value of such improvments at the time the new lessee takes possession thereof. Provided, however, that if any of the improvements consists of breaking (meaning the original plowing of the land), and one (1) years crops have been raised on the land after the breaking thereof, the compensation for such breaking shall not exceed the sum of two dollars and fifty cents ($2.50) per acre, and that in case two (2) or more crops have been raised on the land after the breaking thereof, then in such case the breaking shall not be considered as an improvement to the land. In case of the former lessee and the new lessee are unable to agree on the reasonable value of such improvements, then such value shall be ascertained and fixed as provided in this act.

Payment for improvements by subsequent lessee.

Compensation —breaking.

Determination of improvement values.

In determining the value of these improvements consideration shall be given not only to the original cost but also to the present condition thereof and to their suitableness for the uses ordinarily made of the lands on which they are located, and also to the general state of cultivation of the land, its productive capacity as effected by former use and also to its condition with reference to noxious weeds whether it is infested with such weeds or free from these pests. Consideration shall be given to all actual improvements and to all known effects that the use and occupancy of the land have had upon its

HeinOnline -- 1965 813 1965

productive capacity and desirableness for the new lessee. The former lessee may, however, remove or dispose of the movable improvements on the land to other parties than the lessee; but if he fails to remove such improvements from the land within sixty (60) days from the date of the expiration of his lease, then all of such improvements shall become the property of the state unless the commissioner for good cause shown shall grant additional time for the removal thereof. Before a lease is issued to the new lessee he shall show that he has paid the former lessee the value of the improvements as agreed upon by them or as fixed and determined under the provisions of section 81-406 or that he has offered to pay the value of such improvements as so fixed and determined or that the former lessee elects to remove the improvements.

Failure to remove improvements.

New lessee to show payment for improvements.

Amending clause.

Section 5. Section 81-502, R. C. M. 1947, is amended to read as follows:

Coal mining lease not to exceed 10 years—form—fee.

"81-502. *No coal mining lease shall be issued for a longer term than ten (10) years, but the board may establish such rules and regulations for the renewal of a lease at the expiration of the term as it may deem proper and necessary.* The board shall prescribe the form of the lease; the fee for issuing the lease and approving the bond hereinafter provided shall be two dollars and fifty cents ($2.50) payable to the commissioner."

Amending clause.

Section 6. Section 81-802, R. C. M. 1947, is amended to read as follows:

State board of land commissioners authorized to grant easements in state lands for public uses.

"81-802. The state board of land commissioners is hereby authorized and empowered to grant easements in state lands for school house sites and grounds, for public parks, community buildings, cemeteries and other public uses upon proper applications accompanied by accurate and duly verified plats from the lawfully constituted authorities having charge of such properties."

Amending clause.

Section 7. Section 81-903, R. C. M. 1947, is amended to read as follows:

Reservation from sale from state lands bordering lakes and streams.

"81-903. There is also reserved from sale from all state lands bordering on navigable lakes or bordering on non-navigable meandered lakes and from all state lands bordering on navigable streams, *as the board may deem in the best interests of the state,* a strip of land which shall include all the land lying between low-water mark and high-

HeinOnline -- 1965 814 1965

water mark and which in addition shall extend in width landward from the line of high-water mark of such lake or stream the full width of the forty (40) acre tract or government lot abutting the line of high-water mark; provided, however, that if the width of such abutting government lot at its narrowest point is less than one hundred (100) feet, then the strip hereby reserved shall extend to and include the next adjoining forty (40) acre tract or government lot. The land reserved from sale by this section shall be subject to the granting of easements the same as other state lands.

Certain land may be surveyed and platted.

The state board of land commissioners may in its discretion cause any part of the lands bordering on such lakes and on navigable streams which are hereby reserved from sale to be surveyed and platted into blocks and lots, the lots to be not less than one hundred and twenty-five feet (125) in width, the width to be measured in the general direction of the abutting water front; but in all such surveys and plats the aforesaid strip of one hundred (100) feet in width along the water front shall be reserved for the use and enjoyment of the public.

Leasing.

Such strips of land bordering on meandering lakes or on navigable streams, except the strip lying between low-water and high-water mark, whether surveyed and platted into blocks and lots or not, may, however, be leased as provided in this act for the leasing of other state lands."

Amending clause.

Section 8. Section 81-915, R. C. M. 1947, is amended to read as follows:

Purchaser of state land—minimum amount on day of sale.

"81-915. Every purchaser of state land shall pay on the day of sale such portion of the purchase price as he may desire but in no case less than ten per centum (10%) of the total sales price, and in case the balance on the purchase price is not an exact multiple of twenty-five dollars ($25.00), then he shall pay such additional sum as is necessary to reduce the balance to an even multiple of twenty-five dollars ($25.00); he shall also in all cases pay the sum of five dollars ($5.00) as a fee for each certificate of purchase to be issued to him.

Balance of purchase price—interest—amortization plan.

The balance of the purchase price shall draw interest at the rate of five per centum (5%) per annum, payable annually, and the balance of the purchase price itself shall be payable through a period of thirty-three (33) years on

HeinOnline -- 1965 815 1965

the amortization plan, which is hereby defined as being that plan under which part of the principal is required to be paid each time interest becomes due and payable, and under which this part payment on the principal increases at each succeeding installment in the same amount that the interest payment decreases so that the combined amount due on principal and interest on each due date remains the same until the loan or bond is paid in full; provided, however, that the amount of the last installment may vary from the other installments to the extent resulting from disregarding fractional cents in the previous installments; provided, however, that the balance of the purchase price on town and city lots shall be payable on the amortization plan through a period of twenty (20) years; and provided further that the board may at any time fix a shorter period than twenty (20) years for the payment of such balance on town and city lots, and different periods of time may be established for different towns and cities as the best interest of the state may appear to demand."

Amending clause.

Section 9. Section 81-919, R. C. M. 1947, is amended to read as follows:

Settlement with lessee by purchaser.

"81-919. Whenever any state land has been sold on which there are improvements belonging to a lessee, and some other person than such lessee becomes the purchaser he shall be required to make settlement with such lessee for all improvements on the land belonging to the lessee before the issuing of the certificate of purchase. All provisions of this act relating to the payment and settlement for improvements on state lands between a former lessee and a new lessee shall apply to the settlement between a lessee and the purchaser. *If settlement is not reached within six (6) months of date of sale all improvements become property of the state unless the commissioner for good cause shown grants both parties additional time in which to exhaust arbitration.*"

Repealing clause.

Section 10. Sections 81-417, 81-432, 81-433.1, and 81-435, R. C. M. 1947, are repealed.

Approved March 9, 1965.

CHAPTER 258

An Act to Prevent Unfair Competition and Unfair Trade Practices in the Sale of Cigarettes; to Prohibit Sales

HeinOnline -- 1965 816 1965

of Cigarettes Below Cost; to Protect and Stabilize the Collection of Taxes on the Sale of Cigarettes and Revenues From the Licensing of Persons Engaged in the Sale of Cigarettes; to Confer Powers and Impose Duties on the State Board of Equalization and on Persons, as Herein Defined, Engaged in the Sale of Cigarettes at Retail or Wholesale; and Providing Remedies and Imposing Penalties For Violations Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Stabilization of the sale of cigarettes; maximize and protect the state revenues from this source.

Declaration of policy. It is hereby declared that the advertising, offering for sale or sale of cigarettes below cost, in the retail and wholesale trades, with the intent of injuring competitors or lessening competition, is an unfair and deceptive business practice. It is hereby declared to be the policy of the state to promote the public welfare and it is the purpose of this act to carry out that policy in the public interest and stabilize the sale of cigarettes, maximize and protect the state revenues from this source.

"The Montana Cigarette Sales Act."

Section 1. **Short title.** This act shall be known, designated and cited as "The Montana cigarette sales act".

Definitions.

Section 2. **Definitions.** When used in this act, the following words and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning: (1) "Person" shall mean and include any individual, firm, association, company, partnership, corporation for profit or nonprofit corporation, joint stock company, club, agency, syndicate, cooperative, municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary and conservator.

"Person."

"Wholesaler."

(2) "Wholesaler" shall include any person who:

(a) purchases cigarettes directly from the manufacturer; or

(b) purchases cigarettes from any other person who purchases from the manufacturer and who acquires such cigarettes solely for the purpose of bona fide resale to retail dealers; or

(c) services retail outlets by the maintenance of an established place of business for the purchase of ciga-

HeinOnline -- 1965 817 1965

rettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of cigarettes.

Different capacities.

Nothing contained herein shall prevent a person from qualifying in different capacities as both "wholesaler" and "retailer" under the applicable provisions of this act.

"Retailer."

(3) "Retailer" shall mean and include any person who operates a store, stand, booth or concession for the purpose of making sales of cigarettes at retail.

"Administrative agency" or "board."

(4) "Administrative agency" or "board" shall mean the state board of equalization of Montana and, where the meaning of the context so requires, all deputies and employees duly authorized by such board.

"Cigarettes."

(5) "Cigarettes" shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

"Sale."

(6) "Sale" shall mean any transfer for a consideration, exchange, barter, gift, offer for sale and distribution, in any manner, or by any means whatever.

"Sell at wholesale," "sale at wholesale" and "wholesale."

(7) "Sell at wholesale", "sale at wholesale" and "wholesale" sales shall mean and include any bona fide transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or in the usual conduct of the wholesaler's business, to a retailer for the purpose of resale.

"Sell at retail," "sale at retail" and "retail."

(8) "Sell at retail", "sale at retail" and "retail sales" shall mean and include any transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or usual conduct of the seller's business, to the purchaser for consumption or use.

"Basic cost of cigarettes."

(9) "Basic cost of cigarettes" shall mean the invoice cost of cigarettes to the retailer or wholesaler, as the case may be, or the replacement cost of cigarettes to the retailer or wholesaler, as the case may be, in the quantity last purchased, whichever is lower.

"Cost to the wholesaler."

(10) (a) The term "cost to the wholesaler" shall mean the "basic cost of cigarettes" to the wholesaler

HeinOnline -- 1965 818 1965

plus the "cost of doing business by the wholesaler", as evidenced by accounting, which shall include allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor costs (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, business taxes, insurance and advertising.

(b) In the absence of the filing with the board of proof which the board declares to be satisfactory of a lesser or higher cost of doing business by the wholesaler making the sale, the "cost of doing business by the wholesaler" shall be presumed to be five per centum (5%) of the "basic cost of cigarettes" to the wholesaler, plus cartage to the retail outlet, if performed or paid for by the wholesaler, which cartage cost, in the absence of the filing with the board of satisfactory proof of a lesser or higher cost, shall be considered to be three-fourths of one per centum (¾ of 1%) of the "basic cost of cigarettes" to the wholesaler.

"Cost of doing business by the wholesaler."

(11) (a) The term "cost to the retailer" shall mean the "basic cost of cigarettes" to the retailer plus the "cost of doing business by the retailer", as evidenced by the standards and methods of accounting regularly employed by him in his allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising; provided, that any retailer who, in connection with the retailer's purchases by a wholesaler shall, in determining "cost to the retailer", pursuant to this subsection, add the "cost of doing business by the wholesaler", as defined in section 2, subparagraph (10) of this act, to the "basic cost of cigarettes" to said retailer, as well as the "cost of doing business by the retailer".

"Cost to the retailer."

(b) In the absence of the filing with the board of satisfactory proof of a lesser or higher cost of doing business by the retailer making the sale, the "cost of doing business by the retailer" shall be presumed to be ten per centum (10%) of the "basic cost of cigarettes" to the retailer.

"Cost of doing business by the retailer."

HeinOnline -- 1965 819 1965

(c) In the absence of the filing with the board of satisfactory proof of a lesser or higher cost of doing business, the "cost of doing business by the retailer", who, in connection with the retailer's purchase, received not only the discounts ordinarily allowed upon purchases by a retailer, but also, in whole or part, the discounts ordinarily allowed upon purchases by a wholesaler, shall be presumed to be ten per centum (10%) of the sum of the "basic cost of cigarettes" and the "cost of doing business by the wholesaler".

"Business day." (12) "Business day" shall mean any day other than a Sunday or a legal holiday.

Violation. Section 3. It shall be unlawful and a violation of this act:

(1) For any retailer or wholesaler with intent to injure a competitor or substantially lessen competition;

(a) To advertise, offer to sell or sell, at retail or wholesale, cigarettes at less than cost to such a retailer or wholesaler, as the case may be.

(b) To offer a rebate in price, to give a rebate in price, to offer a concession of any kind, or to give a concession of any kind or nature whatever in connection with the sale of cigarettes if such rebate or concession offered or given in connection with the sale of cigarettes is not offered or given by the wholesaler or retailer in the same ratio with respect to all other merchandise as to which such rebate or concession may lawfully be given which is sold by said wholesaler or retailer in the ordinary course of his trade or business.

(2) For any retailer:

(a) To induce or attempt to induce or to procure or attempt to procure the purchase of cigarettes at a price less than "cost to the wholesaler", as defined in this act.

(b) To induce or attempt to induce or to procure or attempt to procure any rebate or concession of any kind or nature whatever in connection with the purchase of cigarettes.

Penalty. (3) Any retailer or wholesaler who violates the provisions of this section shall be guilty of a misdemeanor and shall be prosecuted and punished by a fine of not

HeinOnline -- 1965 820 1965

more than five hundred dollars ($500) for each such offense. Any individual who, as a director, officer, partner, member or agent of any person violating the provisions of this act, assists or aids, directly or indirectly, in such violation, shall, equally with the person for whom he acts, be responsible therefor and subject to the punishment and penalties set forth herein.

Prima facie evidence of intent to injure competitors or substantially lessen competition.

(4) Evidence of advertisement, offering to sell or sale of cigarettes by any retailer or wholesaler at less than cost to him, or evidence of any offer of a rebate in price, or the giving of a rebate in price, or an offer of a concession, or the giving of a concession of any kind or nature whatever in connection with the sale of cigarettes if such rebate or concession offered or given in connection with the sale of cigarettes is not offered or given by the wholesaler or retailer in the same ratio with respect to all other merchandise as to which such rebate or concession may lawfully be given which is sold by said wholesaler or retailer in the ordinary course of his trade or business, or the inducing or attempt to induce, or the procuring or the attempt to procure the purchase of cigarettes at a price less than cost to the wholesaler or the retailer, shall be prima facie evidence of intent to injure competitors or substantially lessen competition.

Sales from wholesaler to wholesaler.

Section 4. **Sales from wholesaler to wholesaler.** When one wholesaler sells cigarettes to any other wholesaler, the former shall not be required to include in his selling price to the latter "cost to the wholesaler", as provided by section 2, subparagraph (10) of this act, except that no such sale shall be made at a price less than the "basic cost of cigarettes", as defined in said section 2, subparagraph (9) of this act, but the latter wholesaler, upon resale to a retailer, shall be considered to be the wholesaler governed by the provisions of said section 2, subparagraph (10) of this act.

Combination sales.

Section 5. **Combination sales.** In all advertisements, offers for sale or sales involving two or more items, at least one of which items is cigarettes, at a combined price, and in all advertisements, offers for sale or sales involving the giving of any gift or concession of any kind whatever (whether it be coupons or otherwise) if such rebate or concession offered or given in connection with

HeinOnline -- 1965 821 1965

the sale of cigarettes is not offered or given by the wholesaler or retailer in the same ratio with respect to all other merchandise as to which such rebate or concession may lawfully be given which is sold by said wholesaler or retailer in the ordinary course of his trade or business, the retailer's or wholesaler's combined selling price shall not be below the "cost to the retailer" or the "cost to the wholesaler", respectively, of the total costs of all articles, products, commodities, gifts and concessions included in such transactions.

Exceptions.

Section 6. **Exceptions.** The provisions of this act shall not apply to sales at retail or sales at wholesale made (a) as an isolated transaction and not in the usual course of business; (b) where cigarettes are advertised, offered for sale, or sold in bona fide clearance sales for the purpose of discontinuing trade in such cigarettes and said advertising, offer to sell, or sale, shall state the reason thereof and the quantity of such cigarettes advertised, offered for sale, or sold as imperfect or damaged, and said advertising, offer to sell, or sale, shall state the reason therefor and the quantity of such cigarettes advertised, offered for sale, or to be sold; (c) where cigarettes are sold upon the final liquidation of a business; or (d) where cigarettes are advertised, offered for sale, or sold by any fiduciary or other officer acting under the order or direction of any court.

Retailer may sell at price to meet competition.

Section 7. **Sales to meet competition.** (a) Any retailer may advertise, offer to sell, or sell cigarettes at a price made in good faith to meet the price of a competitor who is selling the same article at cost to him as a retailer as prescribed in this act. Any wholesaler may advertise, offer to sell, or sell cigarettes at a price made in good faith to meet the price of a competitor who is rendering the same type of service and is selling the same article at cost to him as a wholesaler, as prescribed in this act. The price of cigarettes advertised, offered for sale, or sold under the exceptions specified in section 6 shall not be considered the price of a competitor and shall not be used as a basis for establishing prices below cost, nor shall the price established at a bankrupt sale be considered the price of a competitor within the purview of this section.

"Cost survey."

(b) In the absence of proof of the "price of a competitor", under this section, the "lowest cost to the re-

HeinOnline -- 1965 822 1965

tailer", or the "lowest cost to the wholesaler", as the case may be, determined by any "cost survey", made pursuant to section 11 of this act, may be considered to be the "price of a competitor", within the meaning of this section.

Contracts in violation void.

Section 8. **Contracts in violation void.** Any contract, expressed or implied, made by any person in violation of any of the provisions of this act, is declared to be an illegal and void contract and no recovery thereon shall be had.

Evidence to determine bona fide cost.

Section 9. **Evidence to be considered as bearing on bona fides of cost.** (a) In determining "cost to the retailer" and "cost to the wholesaler", the board or a court shall receive and consider as bearing on the bona fides of such cost, evidence tending to show that any person complained against under any of the provisions of this act purchased cigarettes, with respect to the sale of which complaint is made, at a fictitious price, or upon terms, or in such a manner, or under such invoices, as to conceal the true cost, discounts or terms of purchase, and shall also receive and consider as bearing on the bona fides of such cost, evidence of the normal, customary and prevailing terms and discounts in connection with other sales of a similar nature in the trade area or state.

(b) Merchandise given gratis, or payment made to a retailer or wholesaler by the manufacturer thereof for display, or advertising, or promotion purposes or otherwise, shall not be considered in determining the cost of cigarettes to the retailer or wholesaler.

Cigarettes purchased outside the ordinary trade channels.

Section 10. **Cigarettes purchased outside ordinary trade channels.** In establishing the cost of cigarettes to the retailer or wholesaler, the invoice cost of said cigarettes purchased at a forced, bankrupt or closeout sale, or other sale outside of the ordinary channels of trade, may not be used as a basis for justifying a price lower than one based upon the replacement cost of the cigarettes to the retailer or wholesaler in the quantity last purchased, through the ordinary channels of trade.

Cost survey—use as evidence.

Section 11. **Cost survey.** Where a cost survey pursuant to cost accounting practices, including those defined in section 2 (10) (a), has been made by the board, or by a trade association or other industry group, for the

HeinOnline -- 1965 823 1965

trading area in which the offense is committed, to establish the lowest "cost to the retailer" and the lowest "cost to the wholesaler", said cost survey shall be considered to be competent evidence for use in proving the cost to the person complained against within the provisions of this act.

Civil suits by persons injured by violation of act.

Section 12. **Civil suits for violation of act.** (a) In addition to penalties provided by section 3 of this act, any person injured by any violation of this act, or any trade association which is representative of such a person, may maintain an action in any court of equitable jurisdiction to prevent, restrain or enjoin such violation. If in such action a violation of this act shall be established, the court shall enjoin and restrain or otherwise prohibit such violation and, in addition thereto, shall assess in favor of the plaintiff and against the defendant the costs of the suit and reasonable attorney's fee. In such action it shall not be necessary that actual damages to the plaintiff be alleged or proved, but where alleged and proved, the plaintiff in said action, in addition to such injunctive relief and fees and costs of suit, shall be entitled to recover from the defendant the amount of actual damages sustained by the plaintiff.

Action for damages.

(b) In the event no injunctive relief is sought or required, any person injured by a violation of this act may maintain an action for damages alone in any court of competent jurisdiction and the measure of damages in such action shall be the same as prescribed in subsection (a) of this section.

Powers of board.

Section 13. **Powers of board.** (a) In addition to the penalties and rights imposed and set forth in sections 3 and 12 of this act, the board shall enforce the provisions of this act. The board shall have the power to adopt, amend and repeal rules and regulations necessary to enforce and administer the provisions of this act. The board is given full power and authority to revoke or suspend the license or permit of any wholesale or retail cigarette dealer in the state of Montana upon sufficient cause appearing of the violation of this act or upon the failure of such licensee or permittee to comply with any of the provisions of this act.

Suspension or revocation—hearing—penalty.

(b) No license or licenses shall be suspended or revoked except upon notice to the licensee, and after a

HeinOnline -- 1965 824 1965

hearing prescribed by said board at its principal office. The board, upon a finding by it that the licensee has failed to comply with any provisions of this act or any rule or regulation promulgated thereunder, shall, in the case of the first offender, suspend the license or licenses of the said licensee for a period of not less than five (5) nor more than twenty (20) consecutive business days, and, in the case of a second or plural offender, shall suspend said license or licenses for a period of not less than twenty (20) consecutive business days nor more than twelve (12) months, and, in the event the board finds the offender has been guilty of willful and persistent violations, he may revoke such licensee's license or licenses.

Application for reinstatement.

(c) Any person whose license or licenses have been so revoked may apply to the board at the expiration of one year for a reinstatement of his license or licenses. Such license or licenses may be reinstated by the board if it shall appear to the satisfaction of said board that the licensee will comply with the provisions of this act and the rules and regulations promulgated thereunder.

Person whose license has been suspended not to sell cigarettes.

(d) No person whose license has been suspended or revoked shall sell cigarettes or permit cigarettes to be sold during the period of such suspension or revocation on the premises occupied by him or upon other premises controlled by him or others or in any other manner or form whatever. Nor shall any disciplinary proceedings or action be barred or abated by the expiration, transfer, surrender, continuance, renewal or extension of any license issued under the provisions of the "cigarette tax law", as provided in articles of chapter 11 of the Revised Codes of Montana, 1947.

Review of board determination.

Any determination by the board and any order of suspension or revocation of a license or licenses thereunder, or refusal to reinstate a license or licensee after revocation, shall be reviewable by the court in a proper case and in proceedings as provided by the procedural law of this jurisdiction.

Severability clause.

Section 14. **Provisions of act severable.** The provisions of this act shall be severable and if any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void, the remainder of this act shall continue in full force and effect.

HeinOnline -- 1965 825 1965

Repealing clause.

Section 15. **Repealing clause.** All laws and parts of laws in conflict herewith are hereby repealed.

Approved March 9, 1965.

CHAPTER 259

An Act to Amend Section 75-2707, R. C. M. 1947, as Amended by Chapter 216, Session Laws of Montana, 1963, Providing For the Payment to the Named Beneficiary of a Deceased Member of the Teachers Retirement System the Sum of Fifty Dollars ($50.00) Per Month For Each Child of Said Deceased Member Under Eighteen Years (18) of Age if the Named Beneficiary is the Surviving Spouse of the Deceased Member and the Deceased Member Was Actively Engaged as a Teacher Within One (1) Year Prior to His Death; and Providing For an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-2707, as amended by chapter 216 session laws of Montana, 1963, is amended as follows:

Voluntary retirement—ten years service—age of 60.

"75-2707. **Benefits.** (1) **Superannuation retirement benefit.** (a) Any member who has completed ten years of creditable service, the last ten years of which shall have been in this state, and who has attained the age of sixty may retire from service, if he files with the retirement board his written application setting forth the fact of his retirement.

Involuntary retirement—age of 70.

(b) That from an after the passage and approval of this act, any member in service who has attained the age of seventy years, during any school year shall be retired by said retirement board on the first day of September following his or her seventieth birthday.

Retirement allowance.

(2) **Allowance on superannuation retirement.** Upon superannuation retirement a member shall receive a superannuation retirement allowance which shall consist of:

Annuity.

(a) An annuity which shall be actuarial equivalent of his accumulated contributions at the time of his retirement, and

HeinOnline -- 1965 826 1965

(b) A pension of one-quarter of his average final compensation provided his creditable service is at least thirty-five years, otherwise, a pension of one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of his creditable service, and Pension.

(c) If he has a prior service certificate in full force and effect, an additional pension which shall be equal to one one-hundred fortieth (1/140) of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate. Additional pension.

(d) The minimum annual retirement allowance for a member who has completed thirty years service and who retired after September 1, 1937, and before June 30, 1949, shall be twelve hundred dollars ($1,200.00), and the minimum retirement allowance for a member who retired after September 1, 1937, and before June 30, 1949, but whose service is less than thirty years shall receive a minimum retirement allowance based on the proportionate amount of twelve hundred dollars ($1,200.00) that his service bears to thirty years of service. Minimum —30 years.

(e) The minimum annual retirement allowance for a member who has completed thirty-five years of service and who has attained the age of sixty-five and who retires after June 30, 1949, shall be twelve hundred dollars ($1,200.00). Minimum —35 years.

(f) In the event a member retired on a superannuation allowance has not received more than three retirement payments prior to death, the beneficiary of the member shall receive a refund of the difference between the total paid and the amount of the accumulated contributions. Refund to beneficiary.

(3) **Disability retirement benefit.** Upon the application of a member in service or of his employer, any member who has had ten or more years of creditable service in the state of Montana may be retired by the retirement board not less than thirty and not more than ninety days next following the date of filing such applications on a disability retirement allowance, provided that the medical board after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired. Disability retirement—application.

HeinOnline -- 1965 827 1965

Retroactive payment.

If the applicant for disability retirement was prevented because of the disability from making application at the time of the time of the commencement of disability, the retirement board shall grant the disability retirement upon the proper application for disability retirement allowance and make payments retroactive to the thirtieth day after the date of commencement of disability.

Superannuation allowance.

(4) **Allowance on disability retirement.** Upon retirement for disability a member shall receive a superannuation allowance if he is eligible for a superannuation allowance; otherwise he shall receive a disability retirement allowance which shall consist of:

Annuity.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement, and

Pension.

(b) A pension which, together with his annuity, shall provide a total retirement allowance equal to ninety per centum (90%) of one-seventieth (1/70) of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds one-quarter (¼) of his average final compensation; otherwise, a pension which, together with his annuity, shall provide a total retirement allowance equal to one-quarter (¼) of his average final compensation, provided, however, that no such allowance shall exceed ninety per centum (90%) of one-seventieth (1/70) of his average final compensation multiplied by the number of years which would be creditable to him were his service to continue until the attainment of the minimum age for superannuation retirement.

Payment to beneficiary.

(c) In the event payments made to a person retired because of disability do not equal the amount of his accumulated contributions prior to his death the difference between the amount paid and the total of the accumulated savings account of said member shall be paid to the beneficiary.

Medical examinations.

(5) **Re-examination of beneficiaries retired on account of disability.** Once each year during the first five (5) years following the retirement of a member on disability retirement allowance, and once in every three year period thereafter the retirement board may, and upon his application shall, require a disability beneficiary who has not

HeinOnline -- 1965 828 1965

yet attained the age of sixty to undergo a medical examination by the medical board or a physician or physicians designated by the medical board, such examination to be made at the place of residence of said beneficiary, or other place mutually agreed upon. Should any disability beneficiary who has not yet attained the age of sixty refuse to submit to at least one medical examination in any year by the medical board, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the retirement board.

Effect of refusal.

(6) Should the medical board report and certify to the retirement board that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed the amount of his pension may be further modified; provided that the new pension shall not exceed the amount of the pension originally granted, nor an amount which when added to the amount earnable by the beneficiary, together with his annuity, equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced benefit.

Earning capacity —modification of pension.

(7) Should a disability beneficiary under age sixty be restored to active service at a compensation not less than his average final compensation his retirement allowance shall cease; he shall again become a member of the retirement system and contribute thereto. Any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect and in addition upon his subsequent retirement he shall be credited with all his service as a member, and should he be restored to active service on or after the attainment of the age of fifty-five years, his pension upon subsequent retirement shall not exceed the pension that he would have received had he remained

Restoration to active service.

HeinOnline -- 1965 829 1965

in service during the period of his previous retirement nor the sum of the pension which he was receiving immediately prior to his last restoration to service and the pension that he would have received on account of his service since his last restoration had he entered service at that time as a new entrant.

Withdrawal—refund of savings to member.

(8) (a) A member who withdraws from service or ceases to be a teacher for any cause other than death or retirement shall be paid only the amount contributed by the member to his annuity savings account after first deducting any unpaid annual membership fees of said member.

Death before retirement—refund of savings to estate or beneficiary.

(b) Should a member die before retirement only the amount of the member's contributions to his annuity savings fund account after deducting any unpaid annual membership fees shall be paid to his estate or such person as he shall have nominated by written designation duly executed and filed with the retirement board.

Beneficiary may elect life annuity.

(c) In lieu of benefits provided in (b) above, if the deceased member had qualified by reason of service for a retirement benefit, the beneficiary nominated by the deceased member may elect to receive a monthly life annuity. Said monthly life annuity to be based on the beneficiary's attained age at the time of the deceased member's death and to be calculated from an amount equal to the required reserve for the deceased member's creditable service, together with the deceased member's accumulated contributions.

Support of minor child.

If the beneficiary so electing be the surviving spouse of the deceased member, such beneficiary shall receive, in addition to the monthly annuity, provided the deceased member was actively engaged as a teacher in the state of Montana within one (1) year prior to his death, the sum of fifty dollars ($50.00) per month for each child from the pension accumulation fund for the support of the minor child or children of the deceased member until such child or children reach his or their eighteenth birthday.

Optional benefits—election.

(9) **Optional benefits.** With the provision that no optional selection shall be effective in case a beneficiary dies within thirty days after retirement, and that such a beneficiary shall be considered as an active member at

HeinOnline -- 1965 830 1965

the time of his death; until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement or disability allowance payable throughout life as hereinabove provided, or he may on retirement elect to receive the actuarial equivalent at that time of his retirement or disability allowance in a lesser retirement allowance payable throughout life with the provision that:

Option 1. If he dies before he has received in payment of his annuity the amount of his accumulated contributions as they were at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board; or

Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

Option 3. Upon his death, one-half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement, provided such other benefit or benefits, together with the lesser retirement allowance shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the retirement board."

Section 2. This act is effective upon its passage and approval. **Effective immediately.**

Approved March 9, 1965.

CHAPTER 260

An Act to Amend Section 16-912, R. C. M. 1947, Which Sets the Compensation and Mileage of Members of

HeinOnline -- 1965 831 1965

Boards of County Commissioners, by Increasing the Compensation and Mileage Allowed by That Section; and to Amend Section 32-314, R. C. M. 1947, Relating to Fees Paid to County Commissioners or County Surveyors for Inspecting Highways or Bridges, by Providing for an Increase in the Fees Allowed by That Section.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-912, R. C. M. 1947, is amended to read as follows:

Compensation of board members—class of county.

"16-912. (4464) **Compensation of members of board.** Each member of the board of county commissioners in counties of the first, second, third, and four class, shall receive an annual salary as hereinafter set forth:

First class	*$5,600.00*
Second class	*$5,475.00*
Third class	*$5,375.00*
Fourth class	*$5,275.00*

Each member of the board of county commissioners in all other counties is entitled to *twenty dollars ($20.00)* per day for each day's attendance on the sessions of the board, and *eight cents (8¢)* per mile for the distance necessarily traveled in going to and returning from the county seat and his place of residence each day that such trip is actually made, and while engaged in the performance of his official duties, and no other compensation must be allowed.

No change of salary for term by change of classification.

Salaries of the members of the board of county commissioners of a county shall not be changed during the entire term for which such members are elected, regardless of any change in the classification of the county during such

Vacancy.

term. If a vacancy occurs on the board of county commissioners, the person who is appointed and/or elected to fill the unexpired term shall receive the same salary as the person vacating the office."

Amending clause.

Section 2. Section 32-314, R. C. M. 1947, is amended to read as follows:

Compensation for inspection of highways and construction work.

"32-314. (1632) **Inspection of highways and construction work—compensation.** The board of county commissioners may direct the county surveyor or some member or members of said board, to inspect the condition of any

HeinOnline -- 1965 832 1965

highway or highways or proposed highway or any work, contract or otherwise, under the direction, supervision or control of the county officials, being done or completed on any highway or bridge in the county during the progress of the work or before any work is commenced, or after completion and before payment therefor, and such person or persons making such inspection shall receive for making such inspection when so directed the sum of *twenty dollars ($20.00)* per day and actual expense, which shall be audited and allowed in the same manner as other claims against the county."

Approved March 9, 1965.

CHAPTER 261

An Act to Provide For Annual Payments From the Premium Tax Collected on Motor Vehicle Insurance to Every City or Town Having a Police Department; Providing How Such Payments Shall be Expended by The Cities or Towns.

Be it enacted by the Legislative Assembly of the State of Montana:

Payment to city and town having police department —amount.

Section 1. At the end of each fiscal year the state auditor shall issue and deliver to the treasurer of each city and town in Montana, having a police department, his warrant in an amount equal to the sum paid to that city or town for the use and benefit of its fire department relief association pursuant to the provisions of section 11-1919, R. C. M. 1947, as amended.

Source of payment.

Section 2. The payment provided for by section 1 of this act shall be paid from the premium tax collected on motor vehicle insurance sold in this state to insure against the following risks: motor vehicle physical damage; property damage; bodily injury. Such payments will only be made after deductions have been made from the gross premium tax for cancellations and returned premiums.

Deductions.

Police retirement system.

Section 3. Every city or town, having a police retirement system established under the provisions of the metropolitan police law, shall deposit said payment to the credit of the police reserve fund of such city or town. The board of trustees of each police officer's reserve

Report.

HeinOnline -- 1965 833 1965

fund shall on or before the first day of April of each year report to the state auditor as to the financial condition of their fund.

City or town not governed by police retirement system law.

Section 4. Any city or town not governed by the provisions of the police retirement system law, shall only expend said payment for police training or to purchase pensions for members of their police department. The city or town treasurer of such cities or towns shall on or before the first day of April of each year report to the state auditor as to the expenditures of all funds received pursuant to this act.

Effective June 30, 1967.

Section 5. This act is effective on June 30, 1967.

Approved March 9, 1965.

CHAPTPER 262

An Act Pertaining to the Establishment of Junior High Schools; and Amending Section 75-4202, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-4202, R. C. M. 1947, is amended to read as follows:

Establishment of junior high school —trustees to consent—election.

"75-4202. A junior high school or junior high schools may be established by the school district in which any county high school is located in the manner provided in section 75-4201, provided that the board of trustees of the county high school already located in the district shall by resolution consent thereto. A junior high school, or junior high schools, may also, in like manner, be established by the county high school, provided that the board of trustees of the school district, in which the county high school is located, shall by resolution consent thereto. *In no event, however, shall a junior high school be established unless the question has been submitted to the qualified electors of the district involved, and a majority of the electors vote in favor thereof.*"

Approved March 9, 1965.

CHAPTER 263

An Act to Authorize and Empower Counties, Cities, Towns, School Districts or Other Municipal Subdivi-

HeinOnline -- 1965 834 1965

sions of the State of Montana, and Agencies, Departments, Offices and Divisions of the State Government, and Other Agencies Authorized to Receive Federal Assistance Under Public Law 88-452, 88th Congress, Individually or in Combination, to Enter Into and Carry Out Contracts, Agreements and Plans With Agencies and Departments of the United States Government and to Expend Monies to Implement and Secure the Benefits of Public Law 88-452 of the 88th Congress, Enacted August 20, 1964 (78 Statute 508), Known as the "Economic Opportunity Act of 1964."

Be it enacted by the Legislative Assembly of the State of Montana:

Montana may receive federal funds for economic betterment and relief of poverty.

Section 1. It is the purpose of this act to enable the state of Montana, and the counties, cities, towns, school districts and other governmental subdivisions of the state, and other organizations or agencies authorized to receive federal assistance under public law 88-452, 88th congress, to secure for the citizens of Montana the benefits offered by the United States government to the several states and their citizens in the law of August 20, 1964 (public law 88-452 of the 88th congress; 78 stats. 508) for economic betterment and the relief of poverty. It is the intent of this act to grant to the state and its subdivisions the widest possible authority, within the limits set by law, to cooperate and combine their efforts with those of the appropriate federal agencies, and to comply with any federal regulations, not in conflict with the laws of the state of Montana, to carry out the purposes of the congressional act and secure the resulting benefits for Montana and its people.

Intent of act.

State authorized and empowered to carry out agreements and plans with United States.

Section 2. The state of Montana, and all offices, agencies, departments and divisions thereof, and all counties, cities, towns, school districts and other governmental subdivisions of the state, and other organizations or agencies authorized to receive federal assistance under public law 88-452, 88th congress, singly or in combination, are hereby authorized and empowered, within the limits set by the respective laws governing them, to enter into and carry out contracts, agreements and plans with any authorized agency of the United States government for the implementation and operation within the areas of their respective jurisdictions of the act of congress of August 20, 1964 (public law 88-452 of the 88th congress; 78 stats. 508).

HeinOnline -- 1965 835 1965

State expenditure of public monies.

Section 3. The agencies of the state and local government enumerated in the preceding section may, within the limits of the laws governing their respective authorities to raise and expend public monies, budget for, and/or expend public monies in order to enter into and carry out contracts, agreements and plans under this act and public law 88-452. Any such expenditures must be made from the budgets, budget items or appropriations set up for the general purpose to be served by the project.

City-county commission —authority.

Section 4. The city council or councils of a city or cities within a county and the county commissioners of the county may create a city-county commission to effect the purposes of this act. Such city-county commission is authorized to:

Contracts with U.S.

(1) Make contracts and agreements with United States government agencies for the purpose of carrying out the intent of this act;

Use of public and private funds.

(2) Accept and expend public and private funds made available to such commission for the purpose of carrying out the intent of this act.

Effective immediately.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1965.

CHAPTER 264

An Act Submitting to the Electorate at the November 1966 General Election the Question of Whether or Not a Tobacco Tax Should Be Levied for the Purpose of Financing the Cost of Constructing and Remodeling State Buildings.

Be it enacted by the Legislative Assembly of the State of Montana:

Approval of electors of cigarette tax.

Section 1. Upon the approval of the electors of this state, to be determined by their vote at the general election to be held in November of 1966, the three cent (3¢) per package cigarette tax authorized by Section 84-5606, Subdivision 3 and 4, R. C. M. 1947, and a tax in an amount to be fixed by law on all other tobacco products may be levied and collected for the purpose of

HeinOnline -- 1965 836 1965

financing the cost of constructing and remodeling state buildings.

Section 2. This referendum shall be submitted to the electors on an official ballot which shall contain the title of this act and the number of the referendum. The question shall be presented in substantially the following form:

Ballot—to contain.

☐ For Referendum Measure No.....

☐ Against Referendum Measure No.....

Approved March 9, 1965.

CHAPTER 265

A Bill to Authorize the Issuance of Operating Licenses or Permits For Privately Owned and Operated Shooting Preserves by the Montana Fish and Game Commission and Fixing Fees For Such License or Permit; Providing For the Release of Artificially Propagated Game and the Taking of the Same on Privately Owned and Operated Shooting Preserves; Providing For the Fixing of Shooting Seasons on the Same; Providing For the Maintenance of Records by Operators Thereof; Providing For the Revocation of Licenses or Permits For Privately Owned and Operated Shooting Preserves; and Providing a Repealing Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the Montana fish and game commission is hereby authorized and empowered to issue operating licenses or permits for shooting preserves, which may be privately owned and operated, and to make such rules and regulations as may be necessary and proper in carrying out the purposes of this act.

Montana fish and game commission authorized to license shooting preserves—rules and regulations.

Section 2. Operating licenses or permits may be issued to any person, partnership, association or corporation for the operation of shooting preserves that meet the requirements hereinafter prescribed.

Licenses or permits.

Requirements for issue.

(a) each shooting preserve shall be restricted to not more than 1,280 contiguous acres and shall not be located closer than ten (10) miles from another preserve and in

HeinOnline -- 1965 837 1965

areas which will not substantially reduce hunting areas available to the public as determined by the commission.

(b) the exterior boundaries of each shooting preserve shall be clearly defined and posted with signs erected around the extremity at intervals of 250 feet or less.

Game which may be hunted.

Section 3. Game which may be hunted under this act shall be confined to artificially propagated pheasants, quail, chukar partridges, turkeys and such other species as the Montana fish and game commission may add from time to time.

Minimum number of species.

A minimum number of stock of each species to be hunted on a shooting preserve shall be released on the licensed area during the shooting preserve season. The minimum number of stock of each species to be released shall be determined by the Montana fish and game commission before the commencement of the said season.

Fees.

Section 4. Fees for shooting preserve licenses or permits shall be fifty dollars ($50) per year for the first 160 acres of shooting preserve area, plus twenty dollars ($20) per year for each additional 160 acres or parts thereof.

Holders of licenses or permits—entitled.

Section 5. The operating licenses or permits issued by the Montana fish and game commission shall entitle holders thereof, and their members, guests or patrons to recover not more than 80% of the total number of each species of game released on the premises each year.

Shooting limitations.

Section 6. Except for required compliance with the game recovery restriction provided in section 5 above, shooting preserve operators may establish their own shooting limitations and restrictions on the age, sex and number of each species that may be taken by each person.

Season.

Section 7. In order to give a reasonable opportunity for a fair return on a sizeable investment, the season established for shooting preserves shall be no less than one hundred twenty (120) consecutive days as designated by the Montana fish and game commission during the four (4) month period beginning September 1 and ending December 31.

Tagging of game harvested.

Section 8. All harvested game shall be tagged with a self-sealing tag prior to being either consumed on the premises or removed therefrom, such tags to remain af-

HeinOnline -- 1965 838 1965

fixed until the game actually is prepared for consumption. The Montana fish and game commission shall furnish tags at nominal cost to shooting preserve operators, the tags to be numbered consecutively and dated by year of issuance.

Registration of shooters, game—inspection.

Section 9. Each shooting preserve operator shall maintain a registration book listing the names, addresses and hunting license numbers of all shooters; the date on which they hunted; the amount of game and the species taken; and the tag numbers affixed to each carcass. An accurate record likewise must be maintained of the total number, by species, of game raised and/or purchased, and the date and number of all species released. These records shall be open to inspection by a delegated representative of the Montana fish and game commission at any reasonable time, and shall be the basis upon which the game-recovery limits in section 5 hereof shall be determined.

Wild game on shooting preserves.

Section 10. Any wild game found on shooting preserves may be harvested in accordance with applicable game and hunting laws pertaining to open seasons, bag and possession limits, and so forth, as are established regularly by the Montana fish and game commission and the U. S. fish and wildlife service.

Licensing of hunters.

Section 11. All persons hunting on shooting preserves must have a valid resident or nonresident game bird license.

Shooting preserve license—designation whether public or private preserve.

Section 12. Each shooting preserve license or permit issued by the Montana fish and game commission shall designate whether or not the preserve is open to the public on a commercial basis, or is restricted to a membership or other limited group. In the latter case, the license or permit shall specify that the area is a restricted shooting preserve. The Montana fish and game commission shall maintain accurate listings of the names, addresses, and the location of the property, of all persons to whom shooting preserve licenses or permits are issued; said lists shall be made available in their entirety to anyone requesting same, and shall specify whether the preserves are public or private.

Revocation of license.

Section 13. The Montana fish and game commission may revoke any shooting preserve license or permit issued

HeinOnline -- 1965 839 1965

under the authority of this act, when the licensee has violated any of the provisions of this act or any rule or regulation of the state fish and game commission. After such revocation, a new license or permit may be issued, if in the discretion of the Montana fish and game commission the circumstances so warrant.

Unscheduled inspections of preserves.

Section 14. The state fish and game commission shall conduct unscheduled inspections of all shooting preserves licensed under this act to insure that pertinent statutes as well as the rules and regulations of the state fish and game commission are being followed and obeyed.

Repealing clause.

Section 15. Any and all statutes, or parts thereof, in conflict with or inconsistent with the provisions of this act upon the date of its enactment are hereby repealed.

Approved March 9, 1965.

CHAPTER 266

An Act to Amend Section 33-124, R. C. M. 1947, by Increasing the Value of the Homestead from Two Thousand Five Hundred Dollars to Seven Thousand Five Hundred Dollars; Providing for an Effective Date for This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 33-124, R. C. M. 1947, is amended to read as follows:

Homestead.

"33-124. **Homesteads — quantity and value of land.** Homesteads may be selected and claimed:

Agricultural purposes.

1. Consisting of any quantity of land not exceeding three hundred and twenty (320) acres used for agricultural purposes, and the dwelling house thereon and its appurtenances, and not included in any town plot, city or village; or

City or village.

2. A quantity of land not exceeding in amount one-fourth (¼) of an acre, being within a town plot, city or village, and the dwelling house thereon and its appurtenances.

HeinOnline -- 1965 840 1965

3. Such homestead, in either case, shall not exceed in value the sum of *seven thousand five hundred dollars ($7,500.00)*, provided, however, that in any proceedings instituted to determine the value of such homestead, the assessed value of such land, with included appurtenances, if any, and of such dwelling house as appears on the last completed assessment roll preceding the institution of such proceedings shall be prima facie evidence of the value of the property claimed as a homestead." Limitation of value.

Section 2. This act is effective on its passage and approval. Effective immediately.

Approved March 9, 1965.

CHAPTER 267

An Act Relating to Payments to Silicotics; Amending Sections 71-1003, 71-1004, and 71-1008, All Revised Codes of Montana, 1947, as Amended; Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 71-1003, Revised Codes of Montana, 1947, as last amended by chapter 225, Montana session laws, 1961, be, and the same is hereby amended to read as follows: Amending clause.

"Section 71-1003. **Eligibility requirements for aid to presons having silicosis, as herein defined.** Payments shall be made under this act to any person who: Eligibility requirements for payments.

"(a) Has silicosis, as defined in section 71-1001, which results in his total disability so as to prevent him from engaging in a gainful occupation. The term 'gainful occupation' as used herein shall not be construed to mean occasional or intermittent light employment where the ability to do manual labor is not essential, but shall mean any person having an income from any other source exceeding one hundred fifty dollars ($150.00) per month. Disability. "Gainful occupation."

"(b) Has resided in and been an inhabitant of the state of Montana for ten (10) years, or more, immediately preceding the date of the application. Residence.

"(c) Has silicosis and is entitled to payments under this act, but who is not at the time of receiving a pay- Not in institution.

HeinOnline -- 1965 841 1965

ment an inmate of a penal institution, or is not a patient or inmate of any institution for the treatment of mental diseases, or is not a patient in a medical institution as a result of having been diagnosed as having a psychosis. If the person to whom payment has been ordered to be paid is an inmate of Montana state tuberculosis sanatorium, then and in that case the payment herein provided for shall be made to his wife and children, if any.

Other compensation.

"(d) Is not receiving, with respect to any month for which he would receive a payment under this act, compensation under the Workmen's Compensation Act of the state of Montana, as provided by chapter 155, Laws of 1959, which will equal the sum of *ninety dollars ($90.00)* hereunder. If he is receiving payments under the Workmen's Compensation Act, as provided by chapter 155, Laws of 1959, which is less in the aggregate than *ninety dollars ($90.00),* then he is entitled to a payment under this act of the difference between the amount received under the Workmen's Compensation Act, as provided by chapter 155, Laws of 1959, and *ninety dollars ($90.00)* per month."

Amending clause.

Section 2. That section 71-1004, Revised Codes of Montana, 1947, as last amended by chapter 225, Montana session laws, 1961, be, and the same is hereby amended to read as follows:

Amounts of payments to silicotic.

"71-1004. **Amounts of payments.** Subject to the provisions of this act and the deductions herein provided, any person who has silicosis, as defined in this chapter, and who has, subject to the regulations and standards of the industrial accident board; been determined by the industrial accident board to be entitled to a payment under this chapter for silicosis, shall be granted a payment by the said industrial accident board of *ninety dollars ($90.00)* per month subject to such appropriations as may from time to time be made. The legislature shall authorize such additional appropriations as may be necessary to make the increased monthly payments provided herein."

Amending clause.

Section 3. That section 71-1008, Revised Codes of Montana, 1947, as last amended by chapter 225, Montana session laws, 1961, be, and the same is hereby amended to read as follows:

Board shall administer federal grants.

"Section 71-1008. **Conformity with acts of federal government.** If and when the government of the United

HeinOnline -- 1965 842 1965

States makes grants to states in aid of and allowing payments to persons having silicosis, as herein defined, the industrial accident board of the state of Montana is hereby authorized to administer in the state of Montana such grants-in-aid and payments in addition to grants made by this act. The total payments to any individual under this act shall not exceed *ninety dollars ($90.00)* per month exclusive of any grants made by Congress."

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 9, 1965.

CHAPTER 268

An Act Establishing a Position of Criminal Investigator; Providing an Appropriation; and Amending Section 82-401, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Criminal investigator.

Section 1. (1) There is a position of criminal investigator within the office of the state attorney general. This person shall be located at Deer Lodge, Montana.

Appointment of personnel—compensation.

(2) The attorney general shall appoint the investigator and other necessary assisting personnel and fix their compensation.

Qualifications.

(3) The investigator shall be a person qualified by experience, training and high professional competence in criminal investigation. Qualifications shall be equal to those of similarly assigned federal bureau of investigation personnel.

Section 2. As used in this act:

"Investigator."

"Investigator" means the position of criminal investigator within the attorney general's office.

Powers and duties.

Section 3. The investigator shall have the power and duty to:

(1) Assist city, county and state law enforcement agencies at their request by providing expert and immediate aid in investigation and solution of felonies committed in the state;

HeinOnline -- 1965 843 1965

(2) Assist various law enforcement schools held in the state for law officers when requested;

(3) Cooperate with the bureau of criminal identification and investigation.

Reimbursement for expenses and per diem.

Section 4. The investigator shall be reimbursed for actual and necessary expenses and per diem for each trip, by the city, county or state agency requesting that trip. If more than one agency requests the trip the expenses and per diem shall be divided proportionately.

Access to files.

Section 5. A person with a known criminal record shall not be permitted access to the files of the investigator, nor shall anyone else without the order of a district judge or a supreme court justice.

Agency excluded from public employees' retirement system.

Section 6. The investigator and assisting personnel shall not be covered by the public employees' retirement system.

Air transportation.

Section 7. The state aeronautics commission shall cooperate with the investigator in providing air transportation for him.

Custodial and educational facilities.

Section 8. State custodial and educational institutions, and other state agencies having laboratory facilities shall cooperate with the investigator.

Amending clause.

Section 9. Section 82-401, R. C. M. 1947, is amended by adding subsection 13 to read as follows:

Duty of attorney general.

"82-401. **It is the duty of the attorney general:**

(13) To create and supervise within his office a position of criminal investigator."

"Personal services."

Section 10. (1) (a) "Personal services" means all salaries and wages of full-time, part-time and temporary employees of the investigator's office and includes the state contribution for social security and industrial accident insurance. It does not include a state contribution for public employees' retirement.

"Operation."

(b) "Operation" means all expenditures for personal services and all ordinary and necessary expenditures for the investigator's office, investigator and assisting personnel.

"Capital."

(c) "Capital" means those items which do not lose their identity, which are adaptable to continuing uses and

HeinOnline -- 1965 844 1965

have a life of more than one (1) year. Capital shall be charged with the replacement of existing capital assets as well as new acquisitions but does not include expenditures for construction of buildings, or purchase of land.

(2) (a) The following moneys are appropriated for the biennium ending June 30, 1967: Appropriation.

ATTORNEY GENERAL CRIMINAL INVESTIGATOR	For the fiscal year ending June 30, 1966	For the fiscal year ending June 30, 1967
(i) From the general fund for personal services. Salary for the investigator shall not exceed $8,400.00 per year for each year of the biennium	$10,000.00	$10,000.00
(ii) From the general fund for operation. Laboratory equipment which is not capital shall be included here.	$ 5,000.00	
(iii) From the general fund for capital. Capital may include necessary office equipment, necessary 2-way radio equipment, and laboratory equipment, which will not duplicate accessible laboratory equipment. This shall not include a car.	$ 5,000.00	

Section 11. This act shall be in full force and effect from July 1, 1965 to June 30, 1967. Effective July 1, 1965 to June 30, 1967.

Approved March 9, 1965.

CHAPTER 269

An Act Amending Section 84-1501, R. C. M. 1947, to Provide That the Corporation License Tax Shall Be Five and One-quarter Per Centum (5¼%) of All Net Income; Provided, However, That as to All Taxable Periods Ending on or After February 28, 1967, the Percentage of Net Income to Be Paid Shall Be Four and One-half Per Centum (4½%); and Providing for an Effective Date.

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Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-1501, R. C. M. 1947, is amended to read as follows:

"Corporation" to include.

"84-1501. **The term corporation includes associations, joint stock companies, common law trusts and business trusts which do business in an organized capacity whether created under and pursuant to state laws, agreements, declarations of trust.** Every corporation, except as hereinafter provided, organized and existing under the laws of the state of Montana and engaged in business therein, shall annually pay to the state treasurer, as a license fee for carrying on business in said state of Montana, such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth; and every corporation, except as hereinafter provided, organized and existing under the laws of any other state or country, or the United States, and engaged in business in the state of Montana, shall annually pay for the exclusive use and benefit of the state of Montana a license fee for carrying on its business in the state of Montana of such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth.

License fee.

Tax on net income.

The percentage of net income to be paid under this section shall be *five and one-quarter per centum (5¼%)* of all net income for the taxable period, provided however, that as to all taxable periods ending on or after *February 28, 1967,* whether on a calendar or fiscal year basis, the percentage of net income to be paid under this act shall be four and one-half per centum (4½%). Every corporation subject to taxation under this act shall, in any event, pay a minimum tax of not less than ten dollars ($10).

Minimum tax.

Income excluded.

There shall not be taxed under this title any income received by any—

(a). Labor, agricultural or horticultural organization;

(b). Fraternal beneficiary, society, order or association operating under the lodge system or for the exclusive benefit of the members of fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order or association or their dependents;

HeinOnline -- 1965 846 1965

(c). Cemetery company owned and operated exclusively for the benefit of its members;

(d). Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

(e). Business league, chamber of commerce, or board of trade, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual;

(f). Civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare;

(g). Club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

(h). Farmers' or other mutual hail, cyclone or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses;

(i). Any cooperative association or corporation engaged in the business of operating a rural electrification system or systems for the transmission or distribution of electrical energy on a cooperative basis;

(j). Corporations or associations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

(k). In determining the license fee to be paid under this act, there shall not be included any earnings derived from any public utility managed or operated by any subdivision of the state, or from the exercise of any governmental function."

Section 2. This act shall be effective as to all taxable periods ending on or after February 28, 1965, whether on the calendar or fiscal year basis.

Effective as to taxable periods after February 28, 1965.

HeinOnline -- 1965 847 1965

Effective immediately.

Section 3. This act shall be effective from and after its passage and approval.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 9, 1965.

CHAPTER 270

An Act Amending Section 84-4907, R. C. M. 1947, Relating to Nonresident Taxpayers Personal Income Tax and Deductions Therefrom; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4907, R. C. M. 1947, is amended to read as follows:

Nonresident taxpayers—adjusted gross income to include.

"84-4907. **Nonresident taxpayers.** In the case of a taxpayer other than a resident of this state, adjusted gross income includes the entire amount of adjusted gross income from sources within this state, but shall not include income from annuities, interest on bank deposits, interest on bonds, notes or other interest-bearing obligations, or dividends on stock of corporations; except to the extent to which the same shall be a part of income from any business, trade, profession or occupation carried on in this state. Adjusted gross income from sources within and without this state shall be allocated and apportioned under rules and regulations prescribed by the state board of equalization.

Deductions allowed to nonresident.

In the case of a taxpayer other than a resident of this state, the deductions allowed in computing net income shall be restricted to those directly connected with the production of Montana income. A temporary resident shall be allowed those deductions allowed a resident to the extent that such deductions were actually incurred or expended in the state of Montana during the course of his residency."

Effective immediately.

Section 2. This act is effective as to taxable years ending on and after December 31, 1965.

Approved March 9, 1965.

HeinOnline -- 1965 848 1965

CHAPTER 271

An Act Creating an Off-Premises Beer License Account in the Earmarked Revenue Fund, Providing For an Appropriation, and Amending Section 4-333, R. C. M. 1947, Concerning Off-Premise Beer Licenses.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 4-333, R. C. M. 1947, is amended to read as follows: **Amending clause.**

"4-333. (1) Except as otherwise provided by law, a license to sell beer at retail in accordance with the provisions of this act and the regulations of the Montana liquor control board, may be issued to any person, firm or corporation who shall be approved by a majority of the board as a fit and proper person, firm or corporation to sell beer; provided, that the number of retail beer licenses that the board may issue shall be determined as follows: **Retail beer licenses.**

(a) The number of retail beer licenses that the board may issue for premises situated within incorporated cities and incorporated towns and within a distance of five (5) miles from the corporate limits of such cities and towns shall be determined on the basis of population as shown by the most recent official United States census authorized by Congress, to wit: In incorporated towns of five hundred (500) inhabitants or less and within a distance of five (5) miles from the corporate limits of such towns, not more than two (2) retail beer licenses to be used in conjunction with retail liquor licenses and not more than one (1) additional retail beer license which shall not be used in conjunction with a retail liquor license; in incorporated cities or incorporated towns of more than five hundred (500) inhabitants and not over two thousand (2000) inhabitants and within a distance of five (5) miles from the corporate limits of such cities or towns, two (2) retail beer licenses for the first five hundred (500) inhabitants and one (1) retail beer license for each additional five hundred (500) inhabitants, which said retail beer licenses shall be used in conjunction with retail liquor licenses, and one (1) additional beer license for each five hundred (500) inhabitants which said beer license shall not be used in conjunction with retail liquor licenses; in incorporated cities of over two thousand **Determination of number of retail beer licenses issued—within incorporated town and within 5 miles thereof.**

HeinOnline -- 1965 849 1965

(2000) inhabitants and within a distance of five (5) miles from the corporate limits of such cities, five (5) retail beer licenses for the first two thousand (2000) inhabitants and one (1) retail beer license for each additional one thousand (1000) inhabitants which said retail beer licenses shall be used in conjunction with retail liquor licenses, and two (2) additional retail beer licenses for the first two thousand (2000) inhabitants or major fraction thereof and one (1) additional retail beer license for each additional two thousand (2000) inhabitants which shall not be used in conjunction with retail liquor licenses. The number of the inhabitants in such cities and towns, exclusive of the number of inhabitants residing within a distance of five (5) miles from the corporate limits thereof, shall govern the number of retail beer licenses that may be issued for use within such cities and towns and within a distance of five (5) miles from the corporate limits thereof; provided, that where two (2) or more incorporated municipalities are situated within a distance of five (5) miles from each other, the total number of retail beer licenses that may be issued for use in both of such municipalities and within a distance of five (5) miles from their respective corporate limits, shall be determined on the basis of the combined populations of both of such municipalities and shall not exceed the foregoing limitations. The said distance of five (5) miles from the corporate limits of any incorporated city or incorporated town shall be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of such city or town. Retail beer licenses of issue on the date of the passage and approval of this act and which are in excess of the foregoing limitations shall be renewable, but no new licenses shall be issued in violation of such limitations; provided, that such limitations shall not prevent the issuance of a nontransferable and nonassignable retail beer license to any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization, if such veterans' or fraternal organization has been in existence for a period of five (5) years or more prior to January 1, 1949. No incorporated city or incorporated town may by ordinance restrict the number of licenses that the board may issue; provided that no retail beer license may be issued by the board for any premises situated within any zone of

Measure of distance.

Existing licenses.

No restriction of numbers of licenses by ordinance.

HeinOnline -- 1965 850 1965

such city or town wherein the sale of beer is prohibited by ordinance, a certified copy of which has been filed with the board. The board shall have discretion to deny the issuance of a retail beer license if it shall determine that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities.

Beer license denied in certain areas.

(b) The number of retail beer licenses that the board may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within a distance of five (5) miles from the corporate limits thereof, or for use at premises situated within any unincorporated town shall be as determined by the board in the exercise of its sound discretion; provided, that no retail beer license shall be issued for any premises so suitated unless the board shall determine that the issuance of such license is required by public convenience and necessity.

Outside of incorporated town and 5-mile area surrounding said town.

(2) A retail license to sell beer in the original packages for off-premise consumption only may be issued to any person, firm or corporation who shall be approved by a majority of the board as a fit and proper person, firm or corporation to sell beer *and whose premises proposed for licensing are operated as a bona fide grocery store or a drugstore licensed as a pharmacy*. The number of such licenses that the board may issue shall not be limited by the provisions of subsection (1) of this section, but shall be determined by the board in the exercise of its sound discretion, and the board may in the exercise of its sound discretion grant or deny any application for any such license or suspend or revoke any such license for cause. The annual license fee for a license to sell beer at retail for off-premises consumption shall be the same as for a retail beer license.

Retail beer license —issuance.

Annual license fee.

(3) From and after February 1, 1949, any retail license issued pursuant to this act (including any retail license to sell beer for off-premises consumption), not actually used in a going establishment for a period of ninety (90) days, shall automatically lapse. Upon determining the fact of nonuser for such period the board shall cancel such license of record and no portion of the fee paid therefor shall be refundable. The provisions of this subsection shall not apply to the license of any licensee

Lapse of license.

Provisions not to apply—when.

HeinOnline -- 1965 851 1965

whose premises are operated on a seasonal basis in connection with a bona fide dude ranch, resort, park hotel, tourist facility or like business, provided such licensee has secured written authority from the board to close his licensed premises for a specified period of greater than ninety (90) days' duration, and providing further that should the liquor control board determine that such lapse was reasonably beyond the control of the licensee, then the lapse provision set out above shall not apply."

Renewal—no new licenses issued except by act.

Section 2. Retail licenses to sell beer in the original packages for off-premise consumption of issue on the date of passage and approval of this act shall be renewable, but no new licenses shall be issued except as provided by this act.

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved March 9, 1965.

CHAPTER 272

An Act Authorizing Cities, Towns or Counties to Participate in Flood Control or Flood Prevention Projects, to Acquire Property For Such Purpose, to Accept Federal Aid for Such Purpose, Providing for Division of Expenses in Connection With Such Purpose, Providing For Assessments, Permitting the Cities, Towns or Counties to Enter Into Certain Contracts in Pursuance of Such Purpose, Authorizing the Issuance of General Obligation Bonds For Such Purpose Upon an Election Thereon, Authorizing the State Water Conservation Board to Coordinate Such Activities When Two or More Counties Are Involved and For That Purpose Appropriating to the State Water Conservation Board the Sum of One Dollar ($1) From the General Fund of the State of Montana For the Biennium Commencing July 1, 1965, Containing a Repealing Clause and Containing a Savings Clause.

Be it enacted by the Legislative Assembly of the State of Montana:

Cities, towns and counties empowered to participate in flood control project.

Section 1. Cities, towns or counties, through their councils, boards of county commissioners, or other governing body, are hereby empowered, either individually

HeinOnline -- 1965 852 1965

or jointly, to engage or participate in the establishment of a flood control or flood prevention project within the limits of such city, town or county for the protection or reclamation of property situated therein from floods or high waters and to protect property therein from the effects of flood water, whenever the establishment of such a flood control system shall, in the judgment of the city council, board of county commissioners or other governing body, be conductive to public convenience and welfare. Such cities, towns or counties may in accordance with the provisions of this act individually, jointly or severally, or in cooperation with the federal government or any department or agency thereof, and with each other, deepen, widen, straighten, alter, change, divert or otherwise improve the watercourses within or without their limits, by constructing levees, dikes, embankments, structures, impounding reservoirs or conduits, and improve, widen and establish streets, alleys and boulevards across and adjacent to the abandoned or new channel or conduit and provide for the payment of the cost and maintenance of such flood control project under the terms of this act.

Alteration of watercourse.

Section 2. Such flood control activities, their establishment, construction, operation and maintenance as authorized by this act are declared to be for the protection of the tax base of the city, town or county, for the protection of public roads, lands and improvements, and for the protection of the public health, sanitation, safety and general welfare.

Purpose of flood control activities.

Section 3. Cities, towns and counties may acquire by gift, purchase or condemn and appropriate private property within the limits of the flood control project, including the right to cross railroad right-of-way and property and highway right-of-way and property, so as not to impair the previous public use, as may be necessary to carry into effect the provisions of this act, and to provide an outlet for the watercourses, either natural or artificial, which may be deepened, widened, straightened, altered, changed, diverted or otherwise improved under the provisions of this act. All provisions of the laws of the state of Montana relating to the condemnation of lands for public purposes shall apply to the provisions thereof in and so far as applicable.

Cities, towns and counties may acquire private property within limits of flood control project.

HeinOnline -- 1965 853 1965

Federal aid.

Section 4. Cities, towns and counties may in accordance with the provisions of this act accept federal aid in the doing of the acts provided in sections 1 and 3 hereof, and may assume such portion of the cost thereof not discharged by such federal aid.

Cost of right of way.

Section 5. The cost of all right-of-way acquired by purchase or condemnation may be borne by the city, town or county together with any other property rights which may be required in furtherance of such projects, and the work of actual construction and the cost thereof may be borne by the federal government.

Direction of project and work.

Section 6. This act contemplates that the actual direction of the project and the doing of the work in connection therewith is assumed by the federal government and the city, town or county provides and assumes the cost of necessary right-of-way over and above such contributions in that regard as the federal government may choose to make. Under such limitation all appropriate portions of this act shall apply.

Contributions.

Section 7. Cities, towns and counties in furtherance of such flood control projects may accept contributions to enable them to pay for necessary right-of-way. They may also enter into agreement with the federal government to maintain levees, dikes, or other construction and to do all other acts required by the federal government in maintaining the work when completed.

Allocation of funds.

Section 8. The council, board of governing body shall have power to allocate a portion of the street or road fund, as the case may be, for the purpose of acquiring right-of-way or the maintenance of completed flood control projects.

Annual special assessment.

Section 9. Any city, town or county that shall establish a flood control system pursuant to this act may for the purpose of providing funds for the operation and maintenance thereof levy an annual special assessment against all real property in the area benefiting from such system. Such special assessment shall be apportioned among the several lots or parcels of real property in the benefited area in proportion to the benefit conferred. Such special assessments for the operation and maintenance of any flood control system authorized by this act

HeinOnline -- 1965 854 1965

shall be levied as are other special improvement levies as required by law.

Contract for rights-of-way and embankments.

Section 10. Any city, town or county may contract with any railroad company or with the state highway commission for the use of railroad or highway rights-of-way and embankments, and other railroad or highway property which can be utilized by such city, town or county for the purpose of flood control or protection as part of its flood control system, for any period not exceeding ninety-nine (99) years.

Governing body may divide work into parts.

Section 11. Whenever any city, town or county has begun a flood control system under this act, the council, board or other governing body shall have the power to divide the work into parts, sections or districts; to omit parts of said work and to contract for any part or section separately and proceed therewith the same as if the entire work or improvements were contracted for, done or made.

Contract for indebtedness.

Section 12. Cities, towns and counties are hereby authorized to contract indebtedness and to issue general obligation bonds to provide funds for the payment of the cost of improvements contemplated by this act by following the following procedures:

Special election.

The governing body of the city, town or county may call a special election to vote upon the proposition of issuing said bonds or may submit the proposition as a special question at a regular municipal or general election. The notice of the election and the election itself shall be carried out in accordance with sections 11-2301 through 11-2330, Revised Codes of Montana, 1947, as amended, as to cities, and in accordance with sections 16-2002 through 16-2050, Revised Codes of Montana, 1947, as amended, as to the counties.

Taxation.

Taxes for the payment of said bonds shall be levied in accordance with sections 11-2301 through 11-2330 and sections 16-2002 through 16-2050, Revised Codes of Montana, 1947, as amended, as to cities and counties, respectively. The indebtedness incurred for the purposes herein provided shall not be considered an indebtedness for general or ordinary purposes and shall not be charged against or counted as part of the levies available for general or ordinary purposes.

HeinOnline -- 1965 855 1965

Additional power.

Section 13. This act, and each section thereof, shall be construed as granting additional power without limiting the power already existing in cities, towns and counties.

Appropriation.

Section 14. For the purposes of this section there is hereby appropriated to the water conservation board of the state of Montana from the general fund of the state of Montana for the biennium commencing July 1, 1965, the sum of one dollar ($1).

Severability clause.

Section 15. If a part of this act shall be declared to be invalid, all valid parts that are severable from the invalid parts remain in effect. If a part of this act is declared to be invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Repealing clause.

Section 16. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 9, 1965.

CHAPTER 273

An Act to Submit to the Qualified Electors of the State of Montana an Amendment to the Montana Constitution Relating to the Apportionment of the Legislative Assembly; Amending Sections 2 and 3, Article VI; and Repealing Sections 4 and 45, Article V, and Sections 4, 5 and 6, Article VI.

Be it enacted by the Legislative Assembly of the State of Montana:

Amendment of Section 2, Article VI of Constitution of Montana—apportionment of legislative assembly.

Section 1. Section 2, Article VI of the constitution of the state of Montana is amended to read as follows:

"Section 2. *(1) The senate and house of representatives of the legislative assembly each shall be apportioned on the basis of population.*

(2) The legislative assembly *following each census* made by the authority of the United States, shall revise and adjust the apportionment for representatives *and senators* on the basis of such *census.*

(3) At such time as the constitution of the United States is amended or interpreted to permit apportionment

HeinOnline -- 1965 856 1965

of one house of a state legislative assembly on factors other than population, the senate of the legislative assembly shall be apportioned on the basis of one senator for each county."

Amendment of Section 3, Article VI of Constitution of Montana—senatorial and representative districts.

Section 2. Section 3, Article VI of the constitution of the state of Montana is amended to read as follows:

"Section 3. *Senatorial and* representative districts may be altered from time to time as public convenience may require. When a *senatorial or* representative district shall be composed of two or more counties, they shall be contiguous, and the districts as compact as may be."

Repealing clause.

Section 3. Sections 4 and 45, Article V, and Sections 4, 5 and 6 of Article VI of the constitution of the state of Montana are repealed.

Ballot.

Section 4. When this amendment is submitted to the electors of Montana, there shall be printed on the ballot the title and sections 1, 2 and 3 of this act and the following words:

"☐ For the above amendment.

☐ Against the above amendment."

Approved March 9, 1965.

CHAPTER 274

An Act Providing For the Creation and Establishment of Community College Districts; Directing State Board of Education to Supervise Community Colleges and Junior Colleges; Providing For Elections to Create Community College Districts; Providing For Governing Board of Community College Districts and For the Election, Terms and Qualifications of its Trustees; Providing For Powers of Board of Trustees and Powers of Community College Districts; Providing Authority For, and Financing of, Maintenance and Operations and Capital Improvements of Community College Districts; Providing For Instruction to be Offered by Community and Junior Colleges; Authorizing Negotiations With School Districts For Property and Providing For Adult Education Courses and Exchange of Teachers; Providing That Present Junior Colleges May Be Established as Community Colleges and Community

HeinOnline -- 1965 857 1965

College Districts; and Providing For Annexation of Additional Areas to Community College Districts; Repealing Sections 75-4401, 75-4402, 75-4403, 75-4404, 75-4405, 75-4406, 75-4407, 75-4408, 75-4409, 75-4410, 75-4411, 75-4412, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Community college district.

Section 1. The voters in any area of the state may form a community college district where the area to be formed into such district has an assessed valuation of not less than thirty million dollars ($30,000,000) and has a total of not less than seven hundred (700) pupils regularly enrolled in public and private high schools. The district may consist of a county, two or more contiguous counties, or contiguous parts of two or more counties in this state. When such a district is organized, it shall be a body corporate and a subdivision of the state of Montana and shall be known as "The Community College District of ....., Montana" and, in that name, may sue and be sued, levy and collect taxes within the limitations of this act, and possess the same corporate powers as common school and high school districts in this state, except as herein otherwise provided. Sections 75-1801 to 75-1834, Revised Codes of Montana, 1947, as amended, shall not apply to community college districts organized under the provisions of this act except as provided herein.

District to consist of.

"The Community College District of ....., Montana."

State board of education to supervise.

Section 2. (1) Junior college departments or districts formed prior to the effective date of this act and those community college districts formed under the provisions of this act shall be under the supervision of the state board of education.

Duty of state board.

(2) It shall be the duty of the state board of education to:

(a) Establish the role of the two-year college in the state;

(b) Set up a survey form to be used for local surveys of need and potential for two-year colleges and provide supervision in the conducting of surveys;

(c) Supervise the community college districts formed under the provisions of this act and the junior colleges now in existence and formed prior to the effective date of this act;

HeinOnline -- 1965 858 1965

(d) Formulate and put into effect, uniform policies as to budgeting, record keeping and student accounting;

(e) Establish uniform minimum entrance requirements and uniform curricular offerings for all community and junior colleges;

(f) Make a continuing study of the junior and community college education in the state; and

(g) Be responsible for the accreditation of each junior college and community college under its supervision. Accreditation shall be conducted annually or as often as deemed advisable and made in a manner consistent with the rules and regulations established and applied uniformly to all junior and community college districts in the state. Standards for accreditation of junior and community colleges shall be formulated with due consideration given to curriculum offerings and entrance requirements of the Montana University System.

Boundaries of community college district.

Section 3. The boundaries of any community college district organized under this act shall coincide with the then-existing boundaries of the contiguous common school districts proposed to be included, and such community college district shall be in addition to any other school districts existing in any portion of such area.

Petition of 20% of qualified electors.

Section 4. Whenever there is presented to the state board of education a petition, signed by not less than twenty per centum (20%) of the qualified registered electors residing within each county or part of county within a proposed community college district area, praying that a community college district be organized for the purpose of offering community college (13th and 14th year) courses, the state board of education shall order an election held within the proposed district of the qualified electors therein to vote on the proposal and to elect trustees, at the next following annual school election. At such election, the proposition shall be in substantially the following form:

Proposition—form.

PROPOSITION

Shall there be organized within the area comprising the School Districts of ....., State of Montana, a community college district for the offering of 13th and 14th year courses, to be known as the Community College

HeinOnline -- 1965 859 1965

District of ....., Montana, under the provisions of Chapter (giving the number of this act), Laws of 1965, as prayed in the petition filed with the State Board of Education at Helena, Montana, on the ..... day of ....., 19.....?

☐ For organization

☐ Against organization

Conduction of election.

The election shall be conducted in the manner provided for the election of trustees in a common school district of the second or third class. Within fifteen (15) days after such election, the results shall be transmitted by those receiving the same under law in each component district to the state board of education, by certificates attesting to the total number of votes cast within each such district on said proposition, the votes cast for and against said proposition and the votes cast for each candidate for trustee, together with the tally sheets attested to by the judges and clerks of election at each polling place within each such district. The proposal to organize the community college district, to carry, must receive a majority of the total number of votes cast thereon and the state superintendent of public instruction, from the results so certified and attested, shall determine whether the proposal has received the majority of the votes cast thereon for each county or part of a county within the proposed district and shall certify the results to the state board of education.

Majority.

Certificate—recording.

Should the state superintendent of public instruction certificate show that the proposition to organize such community college district has received a majority of the votes cast thereon in each county or part of a county within the proposed district, the state board of education shall make an order declaring the community college district organized and cause a copy thereof to be recorded in the office of county clerk and recorder in each county in which a portion of such new district is situated. If the proposition carries in some county or counties and/or parts of counties but not in all portions of area sought to be included within the district, the board shall determine whether the area in which the proposition carried by a majority vote meets the requirements of section 1 of this act, and if so shall establish the boundaries. If the proposition carries, the board shall also determine which candidates have been elected trustees under section 5 of this act. Should the proposition to organize

Proposition carries in part of area.

Trustees.

HeinOnline -- 1965 860 1965

the district fail to receive a majority of the votes cast thereon above provided, no tabulation shall be made to determine the candidates elected trustees.

Organization election—at large —exception.

Section 5. In the organization election seven (7) trustees shall be elected at large, except, that should there be in such proposed community college district one or more high school districts or part of a high school district within the community college district with more than forty-three per cent (43%) and not more than fifty per cent (50%) of the total school census of the proposed district, as determined by the last school census, then each such district or part of district shall elect three (3) trustees and the remaining trustees shall be elected at large from the remainder of the proposed college district. Should any such high school district or such part of a high school district have more than fifty per cent (50%) of the total school census of the proposed district then four (4) trustees shall be elected at large from such high school district or such part of high school district and three (3) trustees at large from the remainder of the proposed college district. If the trustees are elected at large throughout the entire proposed district, the one receiving the greatest number of votes shall be elected for a term of seven (7) years, the one receiving the next greatest number of votes, for a term of six (6) years, the one receiving the next greatest number of votes, for a term of five (5) years, the one receiving the next greatest number of votes for a term of four (4) years, the one receiving the next greatest number of votes for a term of three (3) years, the one receiving the next greatest number of votes for a term of two (2) years and the elected one receiving the least number of votes for a term of one (1) year. If the trustees are elected in any manner other than at large throughout the entire proposed district, then the trustees elected shall determine by lot the one who shall serve for seven (7) years, the one who shall serve for six (6) years, the one who shall serve for five (5) years, the one who shall serve for four (4) years, the one who shall serve for three (3) years, the one who shall serve for two (2) years and the one who shall serve for one (1) year. Thereafter, all trustees elected shall serve for terms of seven (7) years each.

Term of trustees elected at large.

Election other than at large.

Notice of organization election.

Section 6. Notice of the organization election shall be given by the state board of education by publication in

HeinOnline -- 1965 861 1965

at least one (1) newspaper of general circulation in each county including any portion of the proposed community college district, once a week for three (3) consecutive weeks, the last insertion to be no longer than one (1) week prior to the date of election. The election shall be conducted in the same manner, at the same polling places and by the same election officials who are conducting elections on that day in each component school district.

Qualifications of board of trustees.

Section 7. Newly elected members of the board of trustees shall be qualified by taking the oath of office prescribed by article XIX, section 1, of the constitution of Montana. The board shall be organized by the election of a president and vice-president and a secretary, said secretary may be or may not be a member of the board. The treasurer of the community college district shall be the county treasurer of the county in which the community college is situated. A majority of the board shall constitute a quorum for the transaction of business, but no contract shall be let, teacher employed or dismissed, or bill approved unless a majority of the whole board shall vote therefor. Any vacancy occurring in the board shall be filled by appointment by the remaining members of the board, and the persons appointed shall hold office until the next election held by such community college district when a trustee shall be elected for the unexpired term. The board shall keep a common seal with which to attest its official acts.

Quorum.

Vacancy.

Election of trustees.

Section 8. After organization, the qualified voters of the community college district shall vote for trustees on the first Saturday in April, and such elections shall be held in the same manner and with elections being held in the component common school districts within the boundaries of such community college district. All costs incident to such community college trustee elections shall be borne by the community college district. Notice of all such elections shall be given by the board of trustees by publication in at least one (1) newspaper of general circulation within each county, at least once a week for two (2) consecutive weeks, the last insertion to be no longer than one (1) week prior to the date of election. Should trustees be elected other than at large throughout the entire district, then only those qualified voters within the district from which the trustee or trustees are to be elected shall cast their ballots for the trustee or trustees

Costs.

Notice.

Elected other than at large.

HeinOnline -- 1965 862 1965

from that district. All candidates for the office of trustee shall file their declarations or candidacy with the secretary of the board of trustees at least thirty (30) days prior to the date of election. If voting machines are not used in a common school district or districts which are within such community college district, then the board of trustees shall cause ballots to be printed and distributed for the polling places in such component districts at the expense of the community college district, but in all other respects said elections shall be held at the same time, in the same places and shall be conducted by the same officials for elections being held in such common school districts. The community college district shall reimburse to the common school district one-half (½) of the costs of the common school district of the compensation actually paid by said common school district to the judges of such elections. The judges of election in each component school district, shall certify to the board of trustees of the community college district the total number of votes cast for each candidate and the votes cast on all questions submitted within fifteen (15) days after any election. Within forty-eight (48) hours thereafter, at least a majority of the then qualified members of the board of trustees of such community college district shall jointly tabulate the results so received, shall declare and certify the candidates receiving the greatest number of votes for terms of seven (7) years each and until their successor shall have been elected and qualified and shall declare and certify the results of the votes cast on any question presented at such election. "Qualified voters", under the provisions of this act, shall mean those voters qualified to vote in the school election of the component common school district.

Declarations of candidacy.

Ballots.

Election judge —expense.

Certification of votes—

Tabulation of results.

"Qualified voters."

Section 9. The board of trustees shall hold monthly meetings within the community college district on the third Tuesday of each month or such other day of the month the board might set and may hold special meetings at any time and place which it may direct. The president and secretary of the board may also call special meetings of said board at any time and place, if in their judgment necessity requires it. The secretary of the board shall notify the members of all regular and special meetings. The members of the board shall receive ten cents (10¢) per mile for the distance necessarily traveled in going

Meetings.

HeinOnline -- 1965 863 1965

to and returning from the place of the meeting and his place of residence each day that such trip is actually made.

Interest by trustee in buildings prohibited.

Section 10. It shall be unlawful for any community college district trustee to have any pecuniary interest, either directly or indirectly, in the erection of any school building, or for furnishing or repairing the same, or be in any manner connected with the furnishing of supplies for the maintenance of the college, or to receive or to accept any compensation or reward for services rendered as trustee, except as herein provided. No board of trustees shall let any contract (except if the amount involved is less than two thousand dollars ($2,000) for building, furnishing, repairing or other work or supplies for the benefit of the district, without first advertising in a newspaper published in each county wherein the area of the district lies for at least two (2) weeks, call for bids to perform such work or furnish such supplies. In all cases where advertising is required, the board shall award the contract to the lowest responsible bidder; provided, however, that the board of trustees shall have the right to reject any and all bids.

Contracting by trustees—advertising, bids.

District to provide.

Section 11. A community college district organized under this act shall provide instruction, classes, school or schools for student residents within the community college district; and subject to the approval of the state board of education provide instruction, courses and classes for vocational training within the district in the trades and industries and commercial branches, and for adult education. The board of trustees of such district may in their discretion determine the per capita cost of such courses, file the same with the state board of education and upon approval thereof by the state board of education, shall require of all non-district residents who are accepted as pupils, a tuition fee in such sum as may be necessary for maintenance of such course or courses. A different tuition may be established as between non-district residents residing within the state of Montana and those residing outside the state of Montana. In addition thereto, such board of trustees may charge resident students such amounts as it deems necessary to maintain such courses, taking into consideration such other funds as may be available under law for the support of such courses.

Per capita cost of course—tuition.

HeinOnline -- 1965 864 1965

Appointments by board.

Section 12. The board of trustees shall appoint the employees of the community college, define and assign their powers and duties and fix their compensation.

The board of trustees and teachers of a community college district shall be subject to and receive the benefits of chapter 27 of title 75 of the Revised Codes of Montana, as amended, and hereafter amended.

Free public school.

Section 13. A community college under this act shall be considered a free public school for budgeting and financial purposes under chapter 36, title 75 of the Revised Codes of Montana, 1947, as amended, and as hereafter amended. The term "average number belonging" for community colleges shall mean those students enrolled and in attendance, in a community college for a period of not less than thirty (30) days, and carrying a course of study of not less than ten (10) class hours in courses, including vocational courses meeting standards prescribed by the state board of education, during each calendar week. A class hour shall mean not less than fifty (50) minutes of instruction or supervised laboratory training. Each student, enrolled for a period of more than thirty (30) days in any one (1) quarter or semester but less than two (2) complete semesters or three (3) complete quarters, shall entitle the college district to receive proportionate credit based upon the number of weeks the student is enrolled and in attendance bears to the total weeks in the two (2) complete semesters or three (3) quarters. Such calculations shall exclude weeks of regular vacation time.

"Average number belonging."

Distribution of moneys.

The moneys coming into the state public school equalization fund shall be distributed and apportioned to provide an annual minimum operating revenue for the community college in accordance with the schedules provided for high schools under chapter 36, title 75 of the Revised Codes of Montana, 1947, as amended and as hereafter amended.

Budgeting laws.

The community college district shall be subject to the budgeting laws of a joint high school district or a joint common school district maintaining a high school, insofar as they are applicable, provided, however, the budget of a community college district shall be complete and separate.

HeinOnline -- 1965 865 1965

Raise money when necessary.

Whenever the board of trustees of a community college district shall deem it necessary to raise money for college purposes in addition to its revenues from county and state apportionments, they may proceed insofar as applicable under sections 75-4609 and 75-4610 of the Revised Codes of Montana, 1947, as amended.

Power and authority of board of trustees.

Section 14. The board of trustees of any community college district is hereby vested with the power and authority to build, enlarge, alter, repair or acquire by purchase school buildings and dormitories; furnishing and equipping the same, and purchasing the necessary lands therefor and the board of trustees of any community college district is hereby authorized to levy an additional tax not exceeding ten (10) mills on the dollar of the taxable value of all taxable property within the district for these purposes; provided they shall first be authorized to do so by an election held of the qualified electors of the district who are taxpayers upon property within the community college district, called, noticed and conducted insofar as applicable by sections 75-4609 and 75-4610 of the Revised Codes of Montana, 1947, as amended. The board of trustees of any community college district is hereby authorized to accept funds from the United States or the state of Montana, their instrumentalities or any of their agencies in aid of any one or more of such purposes or in maintaining and operating the college.

Board authorized to accept federal or state funds.

Board authorized to accept gifts.

Section 15. All community college districts and its boards of trustees thereof on behalf of such districts are hereby authorized and empowered to accept gifts, legacies and devises, subject to the conditions imposed by the deed of the dower, or will of testator, or without any conditions imposed.

School district may lease property to community college district.

Section 16. Whenever there is within any school district any school property that is not required for the use of the school district and such property could be used for purposes of offering education beyond grade twelve or vocational and adult education by community college district, the boards of trustees of any school district is hereby authorized to lease or sell and convey the same to such community college district by negotiation. Any school district within or without the community college district is authorized to contract with a community college dis-

HeinOnline -- 1965 866 1965

trict to provide adult education courses for such school district and to exchange teachers.

State board of education to supervise junior colleges established prior to act.

Section 17. All junior colleges established prior to the effective date of this act shall be under the supervision of the state board of education and shall conform to the scholastic standards established by the board, but no such district may be dissolved except as now provided by law and in no instance because it does not meet the standards for organization established by section 1 of this act. The governing board of any such institution may, by resolution and by transmitting a copy of such resolution to the state superintendent of public instruction, establish a community college district under this act, and name the same without compliance with sections 1 and 4 of this act.

Trustees prior to general election.

If such governing board establishes a community college district it shall act as the board of trustees of the community college district until the next general school election held on the first Saturday in April as provided in section 8 herein when all community college district trustees shall be elected as provided in section 5 except that it will not in any way be considered an organization election.

Annexation resolution by board or petition—election.

Section 18. Whenever the junior or community college district board of trustees shall so resolve or whenever ten per cent (10%) of the qualified electors of the common school district or districts situate within one (1) county sought to be annexed indicate by a petition, filed with the secretary of the board of trustees of such junior college or community college district, requesting the annexation of a common school district or districts situate within one (1) county to the said district, the board of trustees shall call an election on such annexation within not less than twenty-five (25) days nor more than sixty (60) days from the passage of such resolution or the filing of said petition as the case may be. Notice of such election shall be given in the same manner as an election held to organize a community college district under this act. The election shall be conducted in the same manner, and those eligible to vote shall be the same as an election to organize junior college districts under this act. The board of trustees shall establish such polling places as it may deem fit within the area sought to be annexed. The question on the ballot shall be as follows:

Notice.

Election conducted —how.

Ballot.

HeinOnline -- 1965 867 1965

"Shall school districts.....
be annexed to and become a part of the community college district of.....,
Montana?

☐ For Annexation
☐ Against Annexation."

The proposal to annex to carry, must receive a majority of the total votes cast thereon. The judges of the election shall within five (5) days after the said election transmit the poll books, ballots and tally lists to the board of trustees of said community college district who shall canvass the vote and declare the results of the election and shall cause, if the annexation question carried, a certified copy of their canvassing resolution to be filed in the office of the county clerk and recorder of the county containing area to be annexed and upon such filing the area to be annexed shall then become a part of the community college district.

Severability clause. Section 19. If any section, sentence, clause or phrase of this act is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Repealing clause. Section 20. Sections 75-4401 through 75-4412, R. C. M. 1947, are repealed.

Approved March 9, 1965.

CHAPTER 275

An Act to Require Owners of House Trailers to Display Property Tax Paid Stickers on their House Trailers and to Require Persons Transporting House Trailers to Display Property Tax Paid Stickers and to Produce Property Tax Paid Receipts for State Law or Weight Enforcement Officials.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act:

"House trailer." "House trailer" means; (1) A trailer or semitrailer which is designed, constructed and equipped as a dwelling place, living abode or sleeping place (either permanently or temporarily) whether mobile or stationary; or

HeinOnline -- 1965 868 1965

(2) A trailer or semitrailer whose chassis and exterior shell is designed and constructed for use as a house trailer, whether mobile or stationary.

Trailer to display property tax paid sticker—to contain.

Section 2. The owner of a house trailer must display on the back of his house trailer or in another conspicuous place a property tax paid sticker prescribed by the supervisor of the Montana highway patrol with the approval of the registrar of motor vehicles. The registrar shall produce the stickers for each county. The stickers shall contain the identifying number of the county and consecutive numbers starting with the number one (1) in each county. The sticker shall be issued by the county treasurer at the time of payment of property taxes. The sticker shall be displayed from fifteen (15) days after the due date for personal property taxes of one year to the due date for personal property taxes of the next year.

Person transporting trailer must display receipt upon request.

Section 3. If stopped on a highway or at a state vehicle weight station by a state highway patrolman or state vehicle weight station attendant, a person transporting a house trailer must produce, if requested, the property tax paid receipt or a duplicate issued by the county treasurer where the vehicle was taxed.

Violation—penalty.

Section 4. The failure to display a property tax paid sticker or the failure to produce a property tax paid receipt from fifteen (15) days after the due date for personal property taxes of one year to the due date for personal property taxes of the next year shall constitute a misdemeanor punishable by a fine of not less than ten dollars ($10) nor more than fifty dollars ($50) or confinement in the county jail for not more than thirty (30) days or both such fine and imprisonment.

Restricting clause.

Section 5. The provisions of this act shall apply only to those house trailers, as defined in this act, subject to assessment and taxation under section 84-406, R. C. M. 1947, as amended and section 84-6008, R. C. M. 1947, as amended.

Approved March 9, 1965.

CHAPTER 276

An Act Providing Revenue for the Long-Range Building Program; Providing for the Issuance and Sale of Bonds

HeinOnline -- 1965 869 1965

to Finance Said Program, Payable Solely from Special Non-property Taxes Pledged to a Special Sinking Fund Account; Pledging and Appropriating Portions of the Income Tax, Corporation License Tax, and Excise Taxes on Cigarettes; and Amending Section 84-1901, R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions and establishment of funds:**

"Long-range building program."

(1) Long-rang building program means and includes all buildings, structures and facilities to be constructed, repaired, used, equipped or furnished and land to be acquired therefor with the consent of the legislative assembly in accordance with R. C. M. 1947, sections 82-3314 to 82-3318, inclusive.

"Long-range building program bonds."

(2) Long-range building program bonds mean and include all series of bonds issued as authorized in section 2 to finance any portion of the long-range building program.

"Sinking fund account."

(3) Sinking fund account means a separate long-range building program subfund which is created within the sinking fund established in R. C. M. 1947, section 79-410, and shall be segregated by the treasurer from all other money in that or any other fund in the treasury and used only to pay long-range building program bonds and interest thereon when due, so long as any such bonds or interest remain unpaid.

"Clearance fund account."

(4) Clearance fund account means a separate long-range building program subfund which is created within the bond and insurance clearance fund established in R. C. M. 1947, section 79-410, and shall be segregated by the treasurer from all other money in that or any other fund in the state treasury and used only to pay costs of the long-range building program, upon order of the controller acting within the limits of the authority conferred upon him by the legislative assembly.

"Board, controller and treasurer."

(5) Board, controller and treasurer mean the state board of examiners, state controller and state treasurer, respectively.

Bonds—statement of limitation.

Section 2. **Long-range building program bonds.** (1) When authorized by the legislative assembly, and within the limits of such authorization and the further limita-

HeinOnline -- 1965 870 1965

tions in this section, the board may issue and sell bonds of the state of Montana in such manner as it shall deem necessary and proper to provide funds to finance the long-range building program. All bonds issued hereunder shall contain a statement that they are not and shall never become a debt or liability of the state of Montana within the meaning of any constitutional or statutory limitation or provision, and that no ad valorem tax may be levied upon property within the state of Montana to pay principal thereof or interest thereon, but that the bonds and interest are payable solely from the proceeds of special taxes pledged and appropriated to the sinking fund account as provided in this chapter, and shall contain the pledge of the state of Montana to continue to levy and collect said special taxes and to apply the proceeds thereof to the retirement of said bonds and the payment of interest thereon.

Issuance of bonds by board—denomination, form and interest.

(2) Each series of such bonds shall be issued by the board upon request of the controller, in such denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with such provisions for conversion or exchange and for the issuance of notes in anticipation of the execution and delivery of definitive bonds, bearing interest at such rate or rates not exceeding five per centum (5%) per annum, maturing at such times not exceeding thirty (30) years from date of issue, subject to redemption at such earlier times and prices and upon such notice, and payable at the office of such fiscal agency of the state of Montana, as the board shall determine subject to the limitations contained in this section.

Interest rates and maturities—limitation.

(3) In the issuance of each series of such bonds, the amount, maturities and interest rates thereof shall be fixed in such manner that the maximum amount of principal and interest to become due in any subsequent fiscal year on all such bonds then outstanding and on the series so to be issued will not exceed fifty per centum (50%) of the average annual amount collected during the three (3) then next preceding fiscal years, from the special taxes pledged by law to the sinking fund account at the time of such issuance.

Form of bonds.

(4) In all other respects the board is authorized to prescribe the form and terms of the bonds, and shall do whatever is lawful and necessary for their issuance and

HeinOnline -- 1965 871 1965

payment. Such bonds and any interest coupons appurtenant thereto shall be signed by the members of the state board of examiners, and the bonds shall be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all such bonds issued and sold.

Proceeds of bond issue.

(5) All proceeds of bonds issued hereunder shall be deposited in the clearance fund account, except that any premiums and accrued interest received shall be deposited in the sinking fund account.

Sinking fund account.

Section 3. **Sinking fund account.** (1) From and after the pledge and appropriation of any special tax to the sinking fund account, as provided and contemplated in this section, such tax shall continue in force and shall be available and shall be irrevocably pledged and appropriated for the payment of long-range building program bonds, and all money received from the collection thereof shall be deposited by the treasurer to the credit of the sinking fund account, so long as any of such bonds or the interest thereon remains unpaid.

Use of money in sinking fund account.

(2) Money in the sinking fund account shall be used first to pay interest and principal when due on long-range building program bonds; second to accumulate a reserve in the amount required below, for the further security of such payments; and third to maintain this reserve in an amount at least equal, after each interest and principal payment, to the maximum amount of interest and principal which will become due on all such bonds which are then outstanding in any subsequent fiscal year.

Money received in sinking fund in excess of principal, interest and reserve requirements.

(3) Money at any time received in the sinking fund account in excess of the principal, interest and reserve requirements stated in subsection (2) shall be transferred by the treasurer to the general fund. If the balance at any time on hand in the sinking fund account is not sufficient for compliance with subsection (2), the treasurer shall credit to said account an amount sufficient to restore said balance from the next collections of the special taxes appropriated to said account, and from any other collections of taxes appropriated to the general fund, not exceeding the aggregate amount theretofore transferred

HeinOnline -- 1965 872 1965

from the sinking fund account to the general fund, and not including ad valorem taxes on property.

State reserves power to appropriate tax to sinking fund.

(4) The state reserves the power, by enactment of the legislative assembly or the people, to levy, impose and assess and to pledge and appropriate to the sinking fund account any tax specially designated therefrom, except an ad valorem tax on property, or any specified amount or percentage of the collections of such special tax, provided that this power shall not be construed to constitute a pledge of the general credit of the state of Montana. The state also reserves the power to appropriate any funds designated by enactment of the legislative assembly or the people for the redemption and prepayment of any long-range building program bonds, or to authorize the issuance and sale of bonds for the purpose of refunding any such outstanding bonds or interest thereon, upon such terms and conditions as may be provided in said enactments and consistent with covenants and agreements made for the security of the outstanding bonds. Refunding bonds issued in advance of the maturity of the bonds refunded shall be issued only subject to the conditions stated in subsection (3) of section 2, substituting for this purpose the principal and interest requirements of the refunding bonds for those of the bonds refunded. Nothing herein shall prevent the board from issuing and selling refunding bonds, payable from the sinking fund account, to provide funds for payment of principal or interest due on long-range building program bonds, when and if and to the extent that the sinking fund account is insufficient for this purpose.

Further reservation by state.

State pledges and appropriates to sinking fund account—5% of certain taxes.

(5) The state hereby pledges and appropriates, and directs to be credited as received to the sinking fund account, five per centum (5%) of all money received from the collection of the income tax and the corporation license tax referred to in section 84-1901, R. C. M. 1947, and such additional amount of said taxes, if any, as may at any time be needed to comply with the principal and interest and reserve requirements stated in subsection (2) of this section 3; provided that no more than five per centum (5%) of such tax collections shall be deemed to be pledged for the purpose of subsection (3) of section 2. The pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of said taxes.

HeinOnline -- 1965 873 1965

Pledge and appropriation of excise taxes.

(6) After approval through initiative or referendum by a majority of the electors voting at an election prior to January 1, 1967, the state upon such approval also pledges and appropriates and directs to be credited as received to the sinking fund account all money received from the collection of each of the excise taxes on cigarettes and other tobacco products which are levied, imposed and assessed by section 84-5606, subdivisions (3) and (4), R. C. M. 1947, as amended, after the payment and redemption in full of the outstanding bonds for which any such tax has heretofore been pledged and appropriated.

Waiver of security provisions.

Section 4. **Waiver of security provisions.** If so stated in any series of bonds issued hereunder, the purchasers and holders thereof may by their purchase and redemption of the same waive in whole or in part the security otherwise made available for such bonds by any provision of this act.

Authorization of bonds.

Section 5. Authorization of bonds. The board is authorized to issue and sell long-range building program bonds in an amount not exceeding thirteen million five hundred thousand dollars ($13,500,000), upon the conditions and in the manner stated in this chapter.

Amending clause.

Section 6. Section 84-1901, R. C. M. 1947, is amended to read as follows:

Deposits to general funds.

"84-1901. The state treasurer shall deposit to the credit of the state general fund all moneys received by him from the collection of automobile drivers' license fees under section 174.11, electric energy producers' license taxes under sections 84-1601 to 84-1609, inclusive, metalliferous mines license taxes under sections 84-2001 to 84-2015, inclusive, telegraph license taxes under sections 84-2501 to 84-2508, inclusive, oil producers' license taxes under sections 84-2201 to 84-2211, inclusive, natural gas distributors' license taxes under sections 84-2101 to 84-2110, inclusive, liquor license taxes under chapter 4 of title 4, telephone license taxes under sections 84-2601 to 84-2608, *inclusive,* inheritance and estate taxes under sections 91-4401 to 91-4459, inclusive, and seventy per centum *(70%)* of all moneys received from the collection of income taxes under sections 84-4901 to 84-4935, inclusive, and corporation license taxes under sections 84-1501 to 84-1519, inclusive, *subject to the prior pledge and appropriation of such income tax and corporation license tax collections for*

HeinOnline -- 1965 874 1965

the payment of long-range building program bonds. The remaining twenty-five per centum (25%) *of the proceeds of the corporation license tax and income tax shall* be deposited to the credit of the earmarked revenue fund for state equalization aid to the public schools of Montana in order to comply with the provisions of section 1a of article XII of the constitution of the state of Montana; and the state treasurer shall also deposit to the credit of the state general fund all moneys received by him from the collection of license taxes, fees and from all other sources under the operation of the Montana beer act, and being sections 4-301 to 4-356, inclusive, and all net revenues and receipts received by him from and under the operation of the state liquor control act, being sections 4-101 to 4-237, *inclusive.*"

Other tax—disposition.

Approved March 9, 1965.

Chapter No. 277 of the Session Laws of 1965 was held to be unconstitutional in STATE EX REL. SCHULTZ V. ST. BD. OF EQUALIZATION, ET AL., 22 St. Rep. 457, decided April 26, 1965, on the grounds that said chapter provided arbitrary and unreasonable classifications and thereby violated provisions of the Constitution of the United States and the Constitution of the State of Montana.

CHAPTER 277

An Act Providing For a Nonresident Contractor's License Fee.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act: (1) "Contractor" means an individual, partnership or corporation performing architectural, engineering or construction work in Montana for a federal, state or local agency of government.

"Contractor."

(2) "Nonresident contractor" means (a) a corporate contractor, fifty-five per cent (55%) or more of the effective ownership of which is in persons who are not residents of Montana, or (b) an individual contractor who is not a resident of Montana or who is a nonresident stockholder in a nonresident corporate contractor, or (c) a partnership contractor, fifty-five per cent (55%) or more of the effective ownership of which is in persons

"Nonresident contractor."

HeinOnline -- 1965 875 1965

who are not residents of Montana or who own stock in a nonresident corporate contractor.

"Gross receipts."

(3) "Gross receipts" shall mean all receipts from sources within the state, whether in the form of money, credits or other valuable consideration, received from engaging in or conducting a business, without deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, taxes, losses or any other expense whatsoever. However, "gross receipts" shall not include cash discounts allowed and taken on sales, and sales refunds, either in cash or by credit, uncollectible accounts written off from time to time, and payments received in final liquidation of accounts included in the gross receipts of any previous return made by the person.

License required to qualify as nonresident contractor—to cover.

Section 2. (1) For the privilege of qualifying as a nonresident contractor, a person shall first apply, upon forms prescribed by the board of equalization, and obtain a license so to do, and pay a license fee, as provided in section 3 of this act. A license issued to a nonresident contractor shall cover all its operations in Montana regardless of the number of its establishments.

Renewal.

(2) Application for a renewal of a license and payment of the initial fee of twenty-five dollars ($25.00) thereon shall be made not later than January 31st of each year. However, a nonresident contractor who has purchased a contractor's license prior to the effective date of this act will have his money refunded and purchase a nonresident contractor's license.

License term.

(3) No license shall be issued for a period of time extending beyond the termination of the calendar year for which issued.

Compliance with regulatory provisions.

(4) Any nonresident contractor subject to licensing provisions of a regulatory nature such as, for example, the requirement of posting a bond before commencing business as a collection agency, must, in addition to filing the regular application above mentioned, comply with such regulatory provisions before being entitled to a license hereunder.

License fee.

Section 3. The license fee for each nonresident contractor shall be twenty-five dollars ($25.00) plus a sum equal to one per cent (1%) of the gross receipts from such

HeinOnline -- 1965 876 1965

business during the income year for which the license is to be issued.

Nonresident contractor exempt—when.

Section 4. A nonresident contractor is exempt from the contractor's license tax, the income tax provided for in Title 84, Chapter 49, R. C. M. 1947, and the corporation license tax provided for in Title 84, Chapter 15, R. C. M. 1947 when such nonresident contractor is covered by the provisions of this act. All other contractors must pay the contractor's license tax; and income tax provided for in Title 84, Chapter 49, R. C. M. 1947; and the corporation license tax provided for in Title 84, Chapter 15, R. C. M. 1947 where applicable.

Paying agency to withhold tax—payment to state board of equalization.

Section 5. A state, county and city agency for whom a nonresident contractor is performing work shall withhold in addition to any other amounts withheld, one per cent (1%) of all payments due the contractor and send such amounts to the state board of equalization. Should the state, county and city agency, for whom the nonresident contractor is performing work or has performed work, fails to withhold such amounts, the contractor shall make payment of these amounts to the state board of equalization. These payments must be submitted to the state board of equalization by the contractor within thirty (30) days of the date on which the contractor received each increment of payment for work performed by the contractor. When the state board of equalization has collected the tax provided for in Section 3 of this act, it shall refund any surplus.

Violation—penalty.

Section 6. In case of any failure to make and file a nonresident contractor's license return, the person failing to file such a return, upon conviction shall be fined not less than one thousand dollars ($1,000) or more than ten thousand dollars ($10,000).

Disposition of license fees collected.

Section 7. Ninety-five per cent (95%) of all license fees collected under section 3 of this act shall be deposited in the earmarked revenue fund to be used for state equalization aid to schools; five per cent (5%) shall be deposited in the earmarked revenue fund to be used by the state board of equalization in administering this act.

Montana corporation exempt—when.

Section 8. A corporation incorporated under Montana law is exempt from the license fee provided for in Section 3 of this act either:

HeinOnline -- 1965 877 1965

(a) (i) If it has filed corporation license tax returns for at least fifteen (15) years, and

(ii) If at least thirty-five percent (35%) of the stockholders are Montana residents; or

(b) If fifty-five percent (55%) or more of the stockholders are Montana residents.

Corporate ownership —residency.

Section 9. All contractors who have not been in business prior to this act shall, on request, provide the state board of equalization with any information relating to ownership. Contractors desiring exemption from the license fee in section 3 of this act shall file proof of residency with the state board of equalization. In enforcing this act the state board of equalization shall determine effective ownership, regardless of corporate structure. A nonresident corporation may file a statement of intent to become a resident corporation with the board of equalization. The corporation's status may not be changed to resident until after five (5) years of such filing. If a corporation has been formed to circumvent the provisions of this act, it may not qualify for bidding on public projects.

Bond company to furnish name of cosigner.

Section 10. Any bonding company furnishing bonds for a nonresident contractor shall file with the state board of equalization the names of the party or parties cosigning the bonds. A bonding company failing to file under this section shall, on conviction, be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

Rules and regulations.

Section 11. The state board of equalization is hereby authorized to formulate rules and regulations necessary for the effective implementation of this act's provisions.

Effective immediately.

Section 12. This act is effective on its passage and approval.

Approved March 9, 1965.

CHAPTER 278

An Act Amending Section 89-103, R. C. M. 1947, to Provide for an Increase in the Membership of the State Water Conservation Board; Removing the State Engineer as a Member of the Board; and Providing for

HeinOnline -- 1965 878 1965

Compensation for the Services of the Appointed Members of Said Board in the Amount of Twenty-five Dollars ($25.00) Per Day.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 89-103, R. C. M. 1947, is amended to read as follows:

Amending clause.

"89-103. (1) There is hereby created a board to be known as the 'state water conservation board,' and by that name the board may sue and be sued, plead and be impleaded, and contract and be contracted with. The board shall consist of *seven (7)* members, *including* the governor *and director who* shall be members ex officio. The *five (5)* remaining members shall be qualified electors of the state and shall be appointed by the governor *with the consent of the senate, and shall serve for a term of six (6) years, except that immediately after the effective date of this act the governor shall appoint two (2) members of the board whose term of office shall expire on the second Monday in January, 1967, and another two (2) members of the board whose term of office shall expire on the second Monday in January, 1969, and one (1) member of the board whose term of office shall expire on the second Monday in January, 1971,* and their successors shall be appointed for a term of six (6) years, except that any person appointed to fill a vacancy shall be eligible for reappointment. Any of the appointed members of the board may be removed by the governor at any time, and any vacancy caused by the death, removal, or resignation or disqualification of any appointed member shall be filled by appointment as hereinabove provided. Succeeding appointments, except when made to fill a vacancy, shall be made on or before the second (2) Monday in January during the biennial session of the legislative assembly preceding the commencement of the term for which the appointment is made. Before entering upon the discharge of his duties, each appointed member shall take, subscribe and file with the secretary of state the oath prescribed by the constitution.

State water conservation board—members, qualification, term and appointment.

(2) The governor shall be the chairman of the board and the vice-chairman shall be the secretary and treasurer of the board. The board shall maintain its principal office in the city of Helena and may maintain such branch offices as it may determine. It shall elect a vice-chairman at its first meeting who shall preside at all meetings of

Governor to be chairman—offices, meetings and quorum.

HeinOnline -- 1965 879 1965

the board when the chairman thereof is absent. It may provide for the holding of regular meetings and may hold a special meeting for the transaction of any business which may properly come before the board at any time and at any place in the state upon the call of the chairman or the vice-chairman or any two (2) members, notice of which may be given by telegram or by depositing in the mails at least forty-eight (48) hours before the meeting; but no notice shall be necessary if at least four (4) members of the board shall be present. A majority in number of the members shall constitute a quorum and the affirmative or negative vote of *four (4)* members shall be necessary to bind the board.

Board to adopt a seal—rules and regulations—legal adviser.

(3) The board shall have and adopt a seal bearing its name, which seal shall be affixed to such records and other instruments as it may direct, and all courts shall take judicial notice of said seal. It is authorized to adopt from time to time, as necessary or expedient, suitable rules and regulations for the administration of this act. The attorney general shall act as legal adviser for the board and shall perform such legal services as the board may request; he shall receive his actual and necessary expenses when engaged in travel in the performance of such services. With his consent the board may employ additional legal counsel, and the board may also appoint such technical and other assistants and employees as may be necessary to enable it to perform its duties and carry out the purposes of this act, and may fix their compensation and secure such fidelity bonds as it may deem advisable.

Compensation.

(4) Each appointed member of the board shall receive, as compensation for his services, the sum of *twenty-five dollars ($25.00)* per day for each day actually engaged in the performance of the duties of his office, including time of travel between his home and the place at which he performs such duties, together with actual traveling and maintenance expenses while away from his home in the performance of the duties of his office. All such compensation and expenses shall be paid solely from the funds provided under the authority of this act."

Approved March 10, 1965.

HeinOnline -- 1965 880 1965

CHAPTER 279

An Act Creating the Office of Director of the State Water Conservation Board; Providing for the Appointment of the Director of the State Water Conservation Board by the Governor; Providing for the Term of Office, Duties of the Director of the State Water Conservation Board and Limitations on Such Duties; and Providing that Nothing Herein Contained Shall Impair the Lawful Obligations of the State Water Conservation Board.

Be it enacted by the Legislative Assembly of the State of Montana:

Director of state water conservation board—appointment.

Section 1. There is hereby created the office of director of the state water conservation board who shall hereinafter be referred to as the "director." The director shall be appointed by the governor and shall serve at the pleasure of the governor, or until his successor shall be appointed and shall have qualified. No person shall be appointed director who has not such theoretical and such practical experience and skill as to qualify him to carry out the duties enjoined on him.

Director to be chief administrator of board.

Section 2. The director shall be the chief administrative office of the state water conservation board and shall perform and execute in the name of the board all ministerial acts required of the state water conservation board by law and shall perform and execute such other duties as may be required by said board, provided that the director shall not acquire by appropriation or otherwise any water right or interest therein and shall not acquire any real property or interest therein or mortgage or otherwise create a lien on the same or dispose of in any manner any water rights or property without specific authorization from and approval of said board. The director shall not construct or cause to be constructed or contract for the construction of any works or projects without specific authorization from and approval of said board.

Compensation.

Section 3. The salary of the director shall not exceed ten thousand dollars ($10,000). No salary of an employee of the board shall exceed the salary of the director.

Saving clause.

Section 4. Nothing in this act contained shall in any way impair any obligation of the state water conservation board lawfully entered into prior to the effective date of this act.

Approved March 10, 1965.

HeinOnline -- 1965 881 1965

CHAPTER 280

An Act Repealing Sections 81-2006, 81-2008, 81-2010, 81-2012, R. C. M. 1947, Thereby Abolishing the Office of State Engineer; Amending Sections 81-2009, 89-2018, 82-3001, 89-702, 89-847, 89-848, 89-849, 89-851, 89-907, 89-908, 89-909, 89-912, 89-914, 89-1201, and 89-2911, R. C. M. 1947, to Provide for the Transfer of Certain Duties of the State Engineer to the State Water Conservation Board; Abolishing the Carey Land Act Board; Repealing Sections 81-2001, 81-2002, 81-2003, 81-2004, 81-2005, 81-2007, 81-2013, 81-2015, 81-2017, 81-2101 Through 81-2121, 81-2123 and 81-2125 Through 81-2130, R. C. M. 1947; Providing for the Transfer of the Book and Records and Funds of the Carey Land Act Board and the Office of the State Engineer to the State Water Conservation Board; and Providing That Nothing in this Act Contained Shall Impair the Obligations of the State of Montana Under the Yellowstone River Compact or the Obligations of the State of Montana, or the State Water Conservation Board Contracted Prior to the Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. Sections 81-2006, 81-2008, 81-2010, and 81-2012, R. C. M. 1947, are hereby repealed.

Amending clause.

Section 2. Section 81-2009, R. C. M. 1947, is amended to read as follows:

State water conservation board authorized to negotiate with agencies of other states and U.S.

"81-2009. The *state water conservation board* is hereby authorized and empowered to negotiate with the duly constituted authorities or agencies of other states and of the United States in the preparation of interstate compacts or agreements governing the use, distribution and allocation of the water of any stream or streams flowing from Montana into such other state or states or flowing from such other state or states into Montana. He shall cooperate with such other state or states and with the United States in making the necessary studies and obtaining the data necessary to the preparation of such compacts. Provided that the authority hereby given and the duties hereby imposed are limited to the preparation and proposal of any such compact and no such compact or agreement shall be anywise binding upon the state of Montana until approved by the legislature of Montana

HeinOnline -- 1965 882 1965

and the legislatures of the other state or states involved in such compact."

Section 3. Section 81-2018, R. C. M. 1947, is amended to read as follows: Amending clause.

"81-2018. The state board of land commissioners is hereby authorized, through the *state water conservation board* as its agent, or otherwise, at its discretion, to appropriate any available waters for use upon state lands, and to authorize the construction of irrigation work for said lands. The appropriation shall be made in the same way and under the same laws as those governing the appropriation of water by individuals, and said water right laws are hereby made available and may be applied by said board or its agent." State board of land commissioners authorized to appropriate available waters for use upon state lands.

Section 4. Section 82-3001, R. C. M. 1947, is amended to read as follows: Amending clause.

"82-3001. There is hereby created an inter-departmental advisory council, to be known as the council on natural resources and development (hereinafter referred to as the 'council'). It shall be composed of the following: The commissioner of state lands and investments, state game warden, state forester, secretary of the grass conservation commission, *a person designated by the state water conservation board,* executive secretary of the oil conservation board, director of the state bureau of mines and geology, and state highway engineer." Inter-departmental advisory council —members.

Section 5. Section 89-702, R. C. M. 1947, is amended to read as follows: Amending clause.

"89-702. No person, association, or corporation shall construct, or cause to be constructed, a dam or dike for the purpose of accumulating, storing, appropriating, or diverting any of the waters of this state, except in a thorough, secure, and substantial manner. Construction of dams and dikes.

Upon complaint on oath being made to the *state water conservation board* by three or more persons residing or having property in such location, that their homes or property would be in danger of destruction or damage in event of flood occurring on account of the breaking of any dam or dike of any reservoir within the state, and that they have reason to believe said reservoir is in an unsafe condition, or that it is being filled with water to such an Examination of dam or dike upon complaint— remedial action.

HeinOnline -- 1965 883 1965

extent as to render it unsafe, it shall be the duty of the *state water conservation board* to forthwith examine, or cause to be examined, the said reservoir. If, upon such examination, the *state water conservation board* shall find that said reservoir is unsafe, or is being filled with water to such an extent as to render it unsafe, it shall notify the county attorney of the county in which the reservoir is located, setting forth *its* findings, and the county attorney shall immediately take the necessary steps to abate the danger and make the structure safe.

Appeal to district court.

In the event of either party being dissatisfied with the findings of the *state water conservation board, it* may take an appeal to the district court of the district wherein the reservoir is located, and said court shall hear and determine the matter at the earliest practical time, subject to the right of either party to take an appeal as in other civil cases; provided, that the judgment of the *state water conservation board* shall control until the final determination of the case."

Amending clause.

Section 6. Section 89-847, R. C. M. 1947, is amended to read as follows:

Adjudication of water rights.

"89-847. It is hereby declared to be the policy of this state and necessary for the welfare of the state and its citizens, that the waters of this state and especially interstate streams arising out of the state be investigated and adjudicated as soon as possible in order to protect the rights of water users in this state and negotiate interstate compacts in relation thereto, and that the state water conservaion board make investigations to secure necessary information and initiate and carry on actions therefor."

Amending clause.

Section 7. Section 89-848, R. C. M. 1947, is amended to read as follows:

Action to adjudicate waters.

"89-848. *T*he state water conservation board is hereby authorized to bring action to adjudicate the waters of any stream or of any stream and its tributaries in any county traversed by said stream."

Amending clause.

Section 8. Section 89-849, R. C. M. 1947, is amended to read as follows:

Appointment of referee.

"89-849. In said actions the state water conservation board, or in any action pending for the adjudication of a water right, any party thereto, may make application to

HeinOnline -- 1965 884 1965

the court for the appointment of some competent person or persons to act as a referee or referees in said cause and to take testimony therein, and the court may appoint a referee or referees who shall proceed as herein set forth. In said order of reference the court may submit to said referee or referees any or all issues of fact in said cause."

Amending clause.

Section 9. Section 89-851, R. C. M. 1947, is amended to read as follows:

State water board to make surveys and secure necessary information before bringing action for adjudication.

"89-851. The *state water conservation board* shall either before or after the bringing of such action do all things, make all surveys, and perform all services required by said board in the securing of all necessary information and making same available to *persons* who may be interested therein including the courts of this state. The *state water conservation board* or some qualified *employee* may proceed to make an examination of any stream or streams as required by said board and the works diverting therefrom, said examination to include the measurement of the discharge of said stream and of the carrying capacity of the various ditches and canals, and examination of the irrigated lands and an approximate measurement of the lands irrigated from the various ditches and canals, and to take such other steps and gather such other data and information as may be essential to the proper understanding of the relative rights of the parties interested, which said observation and measurement shall be reduced to writing and made a matter of record, and it shall be the duty of the *state water conservation board* to make or cause to be made such maps or plats thereof as *deemed* necessary or shall be required. Any or all such surveys, reports, maps and plats may be furnished to the judge of said court or the referee or referees mentioned herein and may be introduced as evidence in such proceedings; provided that the costs and expenses incurred in carrying out the provisions of this section shall be paid by the state water conservation board."

Amending clause.

Section 10. Section 89-907, R. C. M. 1947, is amended to read as follows:

Claim of appropriative right to use of water in interstate tributary —filing of statement— to contain.

"89-907. Any person claiming an appropriative right to the use of any water of any interstate tributary which right was acquired after January 1, 1950, shall within sixty days after the approval of this act, or before he diverts any water, file with the *state water conservation*

HeinOnline -- 1965 885 1965

board at *its* office in Helena, Montana, a written statement containing the following information:

(a) The name of the claimant and his address.

(b) Date of appropriation or the date when the water was first applied to a beneficial use.

(c) The quantity of water claimed.

(d) The name of the stream, river or other source of water from which the diversion is made, if it has a name, and if it does not, such a description as will identify the same.

(e) The purpose for which the water is claimed and the place of intended use.

(f) The means of diversion.

(g) Whether or not a weir or other device for measuring the water intended to be diverted has been installed in his ditch or other means of diversion.

(h) If a notice of appropriation was filed with the county clerk and recorder, as provided by section 89-810, the name of the county where it was filed.

(i) Whether the appropriation was made from an adjudicated or nonadjudicated stream, river or other source of water.

Verification.

The written statement shall be verified by the affidavit of the claimant or someone in his behalf, which affidavit must state that the matters and facts contained in the written statement are true."

Amending clause.

Section 11. Section 89-908, R. C. M. 1947, is amended to read as follows:

Appropriative right to use of waters of interstate tributary of Yellowstone river—installation of measuring device.

"89-908. Any person claiming an appropriative right to use any waters of any interstate tributary of the Yellowstone river which right was acquired subsequently to January 1, 1950, shall, after the approval of this act and before he diverts any such water, install in his ditch, or other means of diversion, a weir or other measuring device so that all of the water to be diverted by him can be accurately measured. The installation of a weir or other measuring device is subject to the approval of the *state water conservation board,* and if in *its* judgment such weir

HeinOnline -- 1965 886 1965

or other measuring device, or the installation of the same, is defective so that the water cannot be accurately measured, *it* may order the installation of an accurate measuring device and the claimant shall not divert any water until he complies with such order."

Section 12. Section 89-909, R. C. M. 1947, is amended to read as follows: Amending clause.

"89-909. It shall be the duty of every said claimant to measure all the water being diverted by him and to keep accurate records thereof on forms prescribed and furnished by the *state water conservation board,* and within fifteen days after the first day of November of each year to file such written records with the *state water conservation board* at *its* office in Helena, Montana." Duty of claimants to measure water and keep records.

Section 13. Section 89-912, R. C. M. 1947, is amended to read as follows: Amending clause.

"89-912. The *state water conservation board* shall prescribe and enforce reasonable rules and regulations consistent with this act and the Yellowstone River Compact." Rules and regulations.

Section 14. Section 89-914, R. C. M. 1947, is amended to read as follows: Amending clause.

"89-914. The *state water conservation board* shall furnish and make available to the Yellowstone river compact commission, from the records filed in *its* office, all appropriative rights to the use of the waters of the interstate tributaries of the Yellowstone river in the state of Montana, acquired after January 1, 1950, the amount of the annual diversions from said interstate tributaries and any other information that *its* records may disclose as may be required by the Yellowstone river compact commission." State water conservation board shall make records available to Yellowstone river compact commission.

Section 15. Section 89-1201, R. C. M. 1947, is amended to read as follows: Amending clause.

"89-1201. (1) Sixty per centum in number of the holders of title or evidence of title to lands sought to be included in an irrigation district and which are susceptible of irrigation, such holders of title or evidence of title also representing sixty per centum of the acreage of said lands, may propose the establishment and organization of an irrigation district under the provisions of this act; provided, however, that when any of such land sought to be included in such irrigation district is covered by mort- Establishment and organization of irrigation district. Mortgaged land.

HeinOnline -- 1965 887 1965

gage or other lien then the owner or owners of such land shall first procure the written consent of the holder of such mortgage or other lien before proposing the establishment and organization of such irrigation district. Irrigation districts may be formed in order to co-operate with the United States under the federal reclamation laws heretofore or hereafter enacted, or under any act of Congress which shall permit of the performance by the United States of work in this state, for the purposes of construction of irrigation works, including drainage works, or for purchase, extension, operation, or maintenance of constructed works, or for the assumption, as principal or guarantor, of indebtedness to the United States on account of district lands. When so organized, such district shall have the powers conferred or that may hereafter be conferred, by law upon such irrigation district, provided, however, that (in) all irrigation districts organized in connection with United States reclamation projects a majority of the holders of title or evidence of title to lands sought to be included in such irrigation district under the provisions of the act, may propose the establishment and organization of such district.

Cooperation with U.S.

(2) The certificate of the county clerk and recorder, or the certificate of the register of the state land office, shall be sufficient evidence of title for the purpose of this act. Where lands have been purchased from the state and part or all of the purchase money has been paid, but the patents or deeds from the state to such lands have not been issued, the receipt or receipts held by the purchasers, or the certificate of the register of the state land office showing the payments on account of purchase, shall be evidence of title to such lands under this act.

Sufficient evidence of title.

(3) Before any such district shall be established, there shall be presented to the district court at the hearing on the petition for such establishment, a written report or opinion from the *state water conservation board* on the engineering features involved and the possibilities of water supplies accompanied by a copy of the decree of the district court showing the adjudicated water rights in said streams from which said waters are to be diverted. For this purpose, a copy of the petition provided for in section 89-1202 and of all maps and other papers filed with the same, shall be filed with the *state water conservation board* at the time the original petition is filed with the clerk of

Written report on engineering features from state water conservation board.

HeinOnline -- 1965 888 1965

the district court. The expense, if any, incurred by the *state water conservation board in the* investigation and report upon the proposed district shall be certified, with *the* report, and that said *board* shall, within a period of one hundred twenty days from the filing of said petition with the *state water conservation board,* render *its* report, as herein provided, to the said district court, and shall be assessed as costs in said hearing, which costs shall be paid by the district in event of its establishment and in event such petition be denied, then such costs shall be paid by the petitioners; provided, however, that such report or opinion shall be not requested or obtained, and shall not be necessary, whenever it is proposed to co-operate with the United States under the federal reclamation laws heretofore or hereafter enacted, or under any act of Congress which shall permit of the performance by the United States of work in this state, for the purposes of construction of irrigation works, including drainage works, or for purchase, extension, operation or maintenance of constructed works, or for the assumption, as principal or guarantor, of indebtedness to the United States on account of district laws."

Expense of investigation.

Section 16. Section 89-2911, R. C. M. 1947, is amended to read as follows:

Amending clause.

"89-2911. As used in this act or regulations issued hereunder:

(a) 'Ground water' means any fresh water under the surface of the land including the water under the bed of any stream, lake, reservoir or other body of surface water. Fresh water shall be deemed to be water fit for domestic, livestock or agricultural use. The administrator, after notice and hearing, is authorized to fix definite standards for determining fresh water in any controlled ground water area or subarea of the state.

"Ground water."

(b) 'Aquifer' means any underground geological structure or formation which is capable of yielding water or is capable of recharge.

"Aquifer."

(c) 'Well' means any artificial opening or excavation in the ground, however made, by which ground water can be obtained or through which it flows under natural pressures or is artificially withdrawn.

"Well."

HeinOnline -- 1965 889 1965

"Beneficial use." (d) 'Beneficial use' means any economically or socially justifiable withdrawal or utilization of water.

"Person." (e) 'Person' means any natural person, association, partnership, corporation, municipality, irrigation district, the state of Montana or any political subdivision or agency thereof, and the United States or agency thereof.

"Administrator." (f) 'Administrator' means the *state water conservation board.*

"Ground water area." (g) 'Ground water area' means an area which, as nearly as known facts permit, may be designated so as to inclose a single and distinct body of ground water, which shall be described horizontally by surface description in all cases and which may be limited vertically by describing known geological formations should conditions dictate this to be desirable. For purposes of administration, large ground water areas may be divided into convenient administrative units 'known as subareas'."

Duties of state water conservation board. Section 17. Any duties, authority or obligation conferred or imposed by law on the Carey Land Act board or the state engineer which are not in this act otherwise provided for are hereby transferred to and conferred and imposed on the state water conservation board.

Transfer of records. Section 18. Immediately following the effective date of this act all books, records, papers, material and supplies of all kinds and nature belonging to the Carey Land Act board, or in the office of the state engineer shall be transferred to the state water conservation board.

Transfer of funds. Section 19. On the effective date of this act all funds in the state treasury which were appropriated to or available to the Carey Land Act board or the state engineer shall become available to the state water conservation board to be used for the purpose of carrying out the purposes of this act and the state water conservation act.

Saving clause. Section 20. Nothing in this act contained shall in any manner impair the obligations of the state of Montana under the Yellowstone River Compact.

Saving clause. Section 21. Nothing in this act contained shall impair any obligations of the state of Montana or the State Water Conservation Board or the Carey Land Act Board lawfully entering to, assumed or contracted for prior to the effective date of this act.

HeinOnline -- 1965 890 1965

Section 22. Sections 81-2001, 81-2002, 81-2003, 81-2004, 81-2005, 81-2007, 81-2013, 81-2015, 81-2017, 81-2101 through 81-2121, 81-2123 and 81-2125 through 81-2130, R. C. M. 1947, are repealed. Repealing clause.

Approved March 10, 1965.

CHAPTER 281

An Act Amending Section 84-4902, R. C. M. 1947, Relating to the Rate of Income Tax, to Provide an Increased Rate of Income Tax for All Taxable Periods Commencing After December 31, 1964, to and Including All Taxable Periods Ending on or Before December 30, 1967; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-4902, R. C. M. 1947, is amended to read as follows: Amending clause.

"84-4902. **Rate of income tax.** There shall be levied, collected and paid for each taxable year upon the taxable income of every taxpayer subject to this tax, after making allowance for exemptions and deductions, as hereinafter provided, a tax at the following rates, to wit: Income tax rate.

(a) On the first one thousand dollars ($1,000.00) of taxable income, or any part thereof, at the rate of one per centum (1%);

(b) On the next one thousand dollars ($1,000.00) of taxable income, or *any* part thereof, at the rate of two per centum (2%);

(c) On the next one thousand dollars ($1,000.00) of taxable income, or any part thereof, at the rate of three per centum (3%);

(d) On the next two thousand dollars ($2,000.00) of taxable income, or any part thereof, at the rate of four per centum (4%);

(e) On the next two thousand dollars ($2,000.00) of taxable income, or any part thereof, at the rate of five per-centum (5%);

(f) On any taxable income in excess of seven thousand dollars ($7,000.00) at the rate of seven per centum (7%).

HeinOnline -- 1965 891 1965

Taxable periods from after December 31, 1964 to December 30, 1967 —income tax rates.

Provided, however, that as to all taxable periods commencing after December 31, 1964, to and including all taxable periods ending on or before December 30, 1967, there shall be levied, collected and paid for each taxable year upon the taxable income of every taxpayer subject to this tax, after making allowance for exemptions and deductions as hereinafter provided, a tax at the following rates:

(a) On the first one thousand dollars ($1,000.00) of taxable income, or any part thereof, at the rate of 1.1%;

(b) On the next one thousand dollars ($1,000.00) of taxable income, or any part thereof, at the rate of 2.2%;

(c) On the next one thousand dollars ($1,000.00) of taxable income, or any part thereof, at the rate of 3.3%;

(d) On the next two thousand dollars ($2,000.00) of taxable income, or any part thereof, at the rate of 4.5%;

(e) On the next two thousand dollars ($2,000.00) of taxable income, or any part thereof, at the rate of 5.6%;

(f) On any taxable income in excess of seven thousand dollars ($7,000.00) at the rate of 7.9%."

Effective immediately.

Section 2. This act shall be effective from and after its passage and approval.

Approved March 15, 1965.

CHAPTER 282

An Act to Amend Section 75-5101, R. C. M. 1947, Relating to Acceptance and Use of Federal Funds for Schools; Containing a Repealing Clause; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-5101, R. C. M. 1947, is amended to read as follows:

Governor and superintendent of public instruction to accept federal funds.

"75-5101. **Federal funds — authority to accept.** The governor of the state of Montana and the superintendent of public instruction of the state of Montana are hereby authorized on behalf of the state of Montana to request and accept such funds as are now or will be made avail-

HeinOnline -- 1965 892 1965

able under any act of Congress of the United States, or otherwise, for purposes of public school building construction and/or for any other purposes of public schools *and public education* as permitted under the laws of the state of Montana and as authorized by the grants from the federal government. Said moneys shall be deposited by the governor and superintendent of public instruction with the treasurer of the state of Montana, *and are hereby appropriated and made available to the superintendent of public instruction. All said moneys shall be expended for the purpose of public school building construction and/or for any other purposes of public schools and public education as permitted under the laws of the state of Montana and as authorized by the grants from the federal government. Such expenditures shall be made under the supervision and discretion of the superintendent of public instruction. Any balance in the account in which said moneys are maintained shall not lapse at any time, but shall be continuously available to the superintendent of public instruction for the expenditure consistent with this act and acts of the federal government.*"

Disposition.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act is effective immediately upon passage and approval.

Effective immediately.

Approved March 18, 1965.

HeinOnline -- 1965 893 1965

HeinOnline -- 1965 894 1965

APPROPRIATIONS, MEMORIALS AND RESOLUTIONS

ENACTED BY THE

Thirty-ninth Legislative Assembly

STATE OF MONTANA

1965

HeinOnline -- 1965 895 1965

HeinOnline -- 1965 896 1965

APPROPRIATIONS, MEMORIALS AND RESOLUTIONS

HOUSE BILL NO. 2

An Act Appropriating Money For the Operation of the Thirty-Ninth Legislative Assembly.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Four hundred seventy-five thousand dollars ($475,000) is appropriated from the general fund for the operation of the thirty-ninth legislative assembly.

Section 2. This act is effective on passage and approval.

Approved January 7, 1965.

HOUSE BILL NO. 4

An Act Appropriating Seven Thousand Two Hundred Dollars $7,200) For State of Montana Dues to the Council of State Governments For the 1965-1967 Biennium.

WHEREAS, the Council of State Governments is a joint governmental agency of all the states, created by the states and entirely supported and directed by the states, and

WHEREAS, the Council of State Governments performs many valuable services for the states such as conducting research on major problems and acting as a clearing house for information of interest to the states, and

WHEREAS, the Council of State Governments also provides staff for the Governors' Conference, the National Legislative Conference, the Conference of Chief Justices, the National Association of Attorneys General, the National Association of State Budget Officers, the National Association of State Purchasing Officials and others, and

WHEREAS, the Council of State Governments has been publicly praised by many prominent public officials including J. Hugo Aronson, former Governor of Montana; Adlai E. Stevenson, United States Representative to the United Nations and former Governor of Illinois; Edmund S. Muskie, Member of the United States Senate and former Governor of Maine; and Robert E. Smylie, Governor of Idaho, and

HeinOnline -- 1965 897 1965

WHEREAS, the Council of State Governments has proved an effective organization by which the states can strengthen their position in the federal system, and therefore deserves the continuing support of the state of Montana.

NOW, THEREFORE, BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. There is appropriated to the Legislative Council from the general fund for the payment of State of Montana dues to the Council of State Governments for the biennium ending June 30, 1967,

seven thousand two hundred dollars .....$ 7,200.

Approved March 9, 1965.

HOUSE BILL NO. 5

An Act Appropriating Moneys For the Operation of the Legislative Council For the Biennium Ending June 30, 1967, and For the Biennium Ending June 30, 1965.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following amounts are appropriated from the general fund to the legislative council for the biennium ending June 30, 1967:

Legislative research, eighty-nine thousand one hundred eight dollars .....$ 89,108.00

Legislative services, eighteen thousand three hundred eighty-seven dollars .....$ 18,387.00

Recodification of the school laws, eighteen thousand dollars .....$ 18,000.00

Section 2. In recodifying the school laws, the legislative council shall afford citizens and educators an opportunity to present recommendations and generally be heard, and shall cooperate with and consult with the superintendent of public instruction and the state board of education. The legislative council shall limit the study to a formal revision involving only the consolidation of duplicate provisions, elimination of conflicts, and the deletion of unnecessary and archaic language, and shall limit policy decisions to those areas, provided that the study shall include the following laws, now codified in Title 75 of the Revised Codes of Montana, 1947,

HeinOnline -- 1965 898 1965

which shall be analyzed and rewritten as necessary for this purpose: Sections 75-1516, 75-1520, 75-1521, 75-1522, and all of Chapters 16, 17, 18, 19, 31, 38, 39, 41, 42, 45, and 46 of Title 75, dealing with school districts and district boundary change procedures, trustees, the budget system, clerks, schoolhouses and sites, elections, bonds, high schools and junior high schools and related local matters.

Section 3. There is appropriated to the legislative council from the general fund for the biennium ending June 30, 1965, to permit the immediate commencement of the recodification of the school laws, three thousand seven hundred dollars ($3,700.00).

Section 4. This act shall become effective on passage and approval.

Approved March 9, 1965.

HOUSE BILL NO. 57

An Act Appropriating Moneys Received From the Federal Government and Moneys From the State Parks Account in the Earmarked Revenue Fund to the State Highway Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated to the State Highway Commission all moneys received from the federal government and all moneys in and to be received in the earmarked revenue fund, state parks account (No. 220500) for a period ending June 30, 1965, to be used for the purpose of creating, improving and maintaining state parks and state park facilities in areas where motor boating is allowed.

Section 2. This act is effective on its passage and approval.

Approved February 8, 1965.

HOUSE BILL NO. 103

An Act to Appropriate Money For the Purchase of Replacement Volumes 2 and 5, and the 1965 Cumulative Pocket Supplements of the Revised Codes of Montana of 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

HeinOnline -- 1965 899 1965

Section 1. There is appropriated from the general fund thirty-five thousand eight hundred five dollars ($35,805) for the purchase of four hundred sixty-two (462) copies of replacement volumes 2 and 5, and the 1965 cumulative pocket supplements of the Revised Codes of Montana, 1947.

Section 2. This act is effective on passage and approval.

Approved February 1, 1965.

HOUSE BILL NO. 106

An Act Appropriating Money to the State Parks Division For the Biennium Ending June 30, 1965.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated from the general fund to the state parks division of the state highway commission, for operation and capital for the biennium ending June 30, 1965, twenty-two thousand dollars ($22,000).

Section 2. This act is effective on passage and approval.

Approved February 1, 1965.

HOUSE BILL NO. 163

An Act to Appropriate Money to the State Soil Conservation Committee For Watershed Project Planning For the Biennium Ending June 30, 1967.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following moneys are appropriated for the biennium ending June 30, 1967:

STATE SOIL CONSERVATION COMMITTEE	For the Fiscal Year ending June 30, 1966	For the Fiscal Year ending June 30, 1967
(1) From the general fund for watershed project planning	$ 15,000.00	$ 15,000.00

Approved March 9, 1965.

HeinOnline -- 1965 900 1965

HOUSE BILL NO. 208

An Act Appropriating Thirty Thousand Dollars ($30,000) For the Montana Bureau of Mines and Geology to Fund Cooperative Greater Montana Coal Resources Research.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Thirty thousand dollars ($30,000) is appropriated from the general fund for the Montana bureau of mines and geology to fund cooperative greater Montana coal resources research.

Approved March 9, 1965.

HOUSE BILL NO. 458

An Act Appropriating the Sum of Thirteen Thousand Nine Hundred Fifteen and 65/100 Dollars ($13,915.65) to Pay the Claim of Walter E. Jenkins, the Father and Legal Guardian of the Estate and Person of Judith Ann Jenkins, a Minor; the Claim Was Heard and Unanimously Approved and Allowed by the State Board of Examiners; the Claim is For Injuries Received by the Minor Child, Judith Ann Jenkins, to Her Right Eye and Nose as a Direct Result of the Negligence of the Montana National Guard in Causing an Explosive Device to be Detonated During the Course of a Parade at Wibaux, County of Wibaux, Montana, on the 4th Day of July, 1961.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The speaker of this house received under date of January 18, 1965, the following letter from the state board of examiners of the state of Montana regarding the claim of Walter E. Jenkins, father and legal guardian of the person and estate of Judith Ann Jenkins, a minor:

"TO THE HONORABLE THIRTY-NINTH LEGISLATIVE ASSEMBLY:

Gentlemen:

Pursuant to the provisions of Section 82-1115, Revised Codes of Montana, 1947, the undersigned, Board of Examiners, after a full hearing on the claim of Walter Jenkins as next friend of Judith Ann Jenkins, a minor, held on the 14th day of December, 1964, does make the following Findings of Fact and Conclusions:

1. WHEREAS, it appears to the State Board of Examiners that Walter E. Jenkins is the natural father and duly appointed, quali-

HeinOnline -- 1965 901 1965

fied and acting legal guardian of the minor child, Judith Ann Jenkins;

2. That on the 4th day of July, 1961, at Wibaux, Montana, Judith Ann Jenkins was a spectator at a parade commemorating that date and also commenmorating the Wibaux, Montana Golden Jubilee;

3. That one of the groups participating in the parade was Troop A, First Reconnaissance Squadron, 163rd Armoured Cavalry of the Montana National Guard, under the command of Captain Donald Lynch;

4. That this troop of the Montana National Guard has as its home station, Glendive, Montana;

5. That the members of Troop A participating in this parade were all volunteers for this duty, in full uniform, and this was not a paid drill;

6. That both the men and equipment of Troop A participating in the parade were at all times subject to the supervision and control of the Montana National Guard; that it is the policy of the Montana National Guard to encourage the local units to participate in community affairs and other civic functions on a volunteer basis;

7. That on the 4th day of July, 1961, and during the course of the parade, Captain Donald Lynch, the commanding officer of Troop A caused to be detonated an explosive device of some nature;

8. That as a direct result of the explosion, Judith Ann Jenkins was struck in the right eye and on the nose by fragments of this device, resulting in a severe injury to the eye causing considerable hemorrhaging and requiring hospitalization; that as a direct result of the fragments striking her on the nose she was caused to be hospitalized a second time; that the fragments striking her nose caused an impacted fracture necessitating plastic and reconstructive surgery; that as a result of the explosion and being struck, Judith Ann Jenkins has endured great pain and suffering and she has a fear of loud or unusual noises persisting to the present time and this fear will continue for an undetermined time in the future;

9. It is therefore resolved by the State Board of Examiners that the Board report to the State Legislature that the claim of Walter E. Jenkins, as next friends of Judith Ann Jenkins, for Thirteen Thousand Nine Hundred Fifteen and 65/100 Dollars ($13,915.65) is a just and proper claim against the State of Montana;

HeinOnline -- 1965 902 1965

10. The fact that the men and equipment of Troop A, First Reconnaissance Squadron, 163rd Armoured Cavalry participated in the parade at Wibaux, Montana, on July 4, 1961, as volunteers does not alter the duty of the Montana National Guard under such circumstances to exercise ordinary care to see that no harm comes to the public viewing the parade by reason of the use of the equipment and the participation of the men in this parade and such duty to exercise ordinary care is reasonably imposed upon the State of Montana and the Montana National Guard when they participate in public functions;

11. That the injuries to Judith Ann Jenkins were directly and proximately caused by the failure of the Montana National Guard to exercise ordinary care to prevent injury to persons viewing the parade arising out of the use of the equipment of the Montana National Guard or the conduct of the members of the Guard participating in said parade and because such duty exists on the part of the Montana National Guard and because of their failure to fulfill such duty to Judith Ann Jenkins, directly and proximately caused her injuries. The claim of Judith Ann Jenkins is a proper claim against the State of Montana;

12. That the sum of Thirteen Thousand Nine Hundred Fifteen and 65/100 Dollars ($13,915.65) is a reasonable and proper claim against the State of Montana for the injuries sustained by Judith Ann Jenkins.

That the Board of Examiners of the State of Montana hereby recommends that the claim of Walter E. Jenkins as next friend of the minor child, Judith Ann Jenkins be paid in full and that monies be appropriated for this purpose.

.....
GOVERNOR

.....
SECRETARY OF STATE

.....
ATTORNEY GENERAL ''

Section 2. This legislative assembly hereby finds the facts of the state board of examiners as set forth above to be correct, and the legislative assembly finds that thirteen thousand nine hundred fifteen and 65/100 dollars ($13,915.65) is a reasonable and proper claim against the state of Montana for the injuries sustained by Judith Ann Jenkins.

Section 3. There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of thirteen

HeinOnline -- 1965 903 1965

thousand nine hundred fifteen and 65/100 dollars ($13,915.65) for the purpose of paying the claim of Walter E. Jenkins as guardian of the estate and person of Judith Ann Jenkins, which claim was heard on the 14th day of December, 1964, by the state board of examiners and unanimously approved and allowed by them on the 18th day of January, 1965; provided, however, that Walter E. Jenkins, as guardian of the estate and person of Judith Ann Jenkins, a minor, shall in consideration hereof, execute to the state of Montana, a release in full of all demands and claims of Judith Ann Jenkins, a minor, and himself as guardian against the state of Montana arising out of that incident occurring July 4, 1961, at Wibaux, Montana, which is more fully described in section 1.

Section 4. The appropriation herein provided shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 15, 1965.

HOUSE BILL NO. 514

An Act to Appropriate Money to the Superintendent of Public Instruction and the Unemployment Compensation Commission, to Enable the State to Participate in the Manpower Development and Training Program, for the Biennium Ending June 30, 1967.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is the purpose of this act to appropriate money to the superintendent of public instruction and the unemployment compensation commission to enable Montana to participate in, and receive federal grants from, the manpower development and training program as authorized by the Congress of the United States.

Section 2. The following moneys are appropriated for the biennium ending June 30, 1967:

SUPERINTENDENT OF PUBLIC INSTRUCTION	For the Fiscal Year ending June 30, 1966	For the Fiscal Year ending June 30, 1967
From the general fund	$20,000	$20,000

HeinOnline -- 1965 904 1965

UNEMPLOYMENT COMPENSATION COMMISSION

From the unexpended general fund balance, 1963-65 appropriation account No. 653-1 ..... $20,000
From the general fund $20,000

Approved March 9, 1965.

HOUSE BILL NO. 520

An Act to Appropriate Money to the State Highway Patrol for Certain Rewards.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. One thousand five hundred dollars ($1,500) is appropriated to the state highway patrol from the earmarked revenue fund, highway patrol account, for the biennium beginning July 1, 1965, and ending June 30, 1967. This money shall be used to reward persons who furnish information to law enforcement officers leading to the arrest and conviction of a person or persons accused of:

(1) Maliciously injuring, defacing, damaging, or removing any sign, signal or marker either temporarily or permanently erected on the right of way of any state or interstate highway for warning, instruction or information of the public; or

(2) Throwing, dumping, depositing or causing to be deposited any garbage, refuse, waste or litter on the right of way of any state or interstate highway.

Approved March 9, 1965.

HOUSE BILL NO. 522

An Act to Appropriate Money to the University of Montana, Montana State University, the Agricultural Experiment Station, the Co-operative Agricultural Extension Service, Montana College of Mineral Science and Technology, Western Montana College, Eastern Montana College, Northern Montana College, Western Interstate Commission for Higher Education, Office of Executive Secretary of Montana University System and the Board of Education for Operation and Capital for the Biennium Ending June 30, 1967.

HeinOnline -- 1965 905 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all expenditures for personal services, all ordinary and necessary expenditures for operation of the institution to which the appropriation applies, repairs and maintenance.

(2) The term "personal services" means all salaries and wages of full-time, part-time and temporary employees of the state and includes the state's contribution for social security, public employees' retirement, teachers' retirement and industrial accident insurance.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacement of parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air conditioning systems in buildings occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have useful life of more than one (1) year. Capital shall be charged with the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for construction or furnishing of buildings or purchase of land unless specifically authorized.

(5) The term "student fees" means all registration and incidental fees, but not student building fees, and all nonresident fees other than nonresident building fees, which are imposed uniformly upon all students, or upon all nonresident students, in attendance at any unit of the Montana university system.

(6) The term "administration and general expenses" means the programs within an institution referred to in the state of Montana budget book as "administration" and "general expense."

(7) The term "approved budget amendment" means approval by the state's chief budget officer upon submission to him, through the budget director.

Section 2. The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations are made; however, in cases of necessity, an appropriation not expended during the first fiscal year may be expended during the second fiscal yar. Each institution shall make such modifications in its administrative practices and changes in its

HeinOnline -- 1965 906 1965

various accounts including personal services, repairs and maintenance, utilities, travel, communications, scholarships, prizes and awards, interest, other supplies and expenses, and recharges to keep within its appropriation. It is unlawful to purchase supplies for a succeeding biennium from an appropriation contained in this act. Balances of any appropriation unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

Section 3. In addition to the amount specifically appropriated by this act, there is appropriated to each institution all federal moneys, income from land grants and trust fund to which it is entitled. All other moneys received from all other sources shall be made available upon approved budget amendment.

Section 4. All student fees collected at units of the Montana university system shall be deposited in the "Montana university system student fee account" of the earmarked revenue fund.

Section 5. There is appropriated from the general fund to the Montana university system student fee account an amount equal to the difference between the total amount appropriated from the Montana university system student fee account and the amount of student fees deposited in the account, if the fees deposited are less than the total amount appropriated. Any balance in this account on June 30, 1967, shall be transferred to the general fund.

Section 6. The following moneys are appropriated for operation and capital:

	For the Fiscal Year ending June 30, 1966	For the Fiscal Year ending June 30, 1967
UNIVERSITY OF MONTANA (Formerly Montana State University)		
1. For administrative and general expenses from the general fund	$ 926,368	$1,002,500
2. For all other programs:		
(a) From the general fund	$2,246,245	$2,805,409
(b) From the Montana university system student fee account	$1,621,454	$1,724,684
(c) From the earmarked revenue fund; university millage account	$1,472,000	$1,488,000
MONTANA STATE UNIVERSITY (Formerly Montana State College)		
1. For administrative and general expenses from the general fund	$ 932,076	$1,055,411

HeinOnline -- 1965 907 1965

2. For all other programs:		
(a) From the general fund	$2,280,864	$2,932,129
(b) From the Montana university system student fee account	$1,310,674	$1,434,527
(c) From the earmarked revenue fund; university millage account	$1,656,000	$1,674,000
AGRICULTURAL EXPERIMENT STATION AND CO-OPERATIVE AGRICULTURAL EXTENSION SERVICE		
1. For the Montana Agricultural Experiment Station from the general fund:		
(a) For the main station	$ 796,393	$ 890,870
(b) For the central Montana branch station	$ 44,818	$ 45,463
(c) For the eastern Montana branch station	$ 51,441	$ 55,138
(d) For the grain laboratory	$ 35,136	$ 38,477
(e) For the Huntley branch station	$ 62,294	$ 66,605
(f) For the north Montana branch station	$ 82,453	$ 86,464
(g) For the northwest Montana branch station	$ 39,721	$ 42,187
(h) For the U. S. range station	$ 102,478	$ 107,877
(i) For the western Montana branch station	$ 34,753	$ 37,046
(j) For the wool laboratory	$ 37,437	$ 40,363
2. For the Co-operative Agricultural Extension Service from the general fund	$ 398,750	$ 398,750
The Board of Regents may transfer appropriated funds between the Agricultural Experiment Station, and the substations.		
MONTANA COLLEGE OF MINERAL SCIENCE AND TECHNOLOGY (Formerly Montana School of Mines)		
1. For administrative and general expenses from the general fund	$ 142,318	$ 149,192

HeinOnline -- 1965 908 1965

2. For all other programs:		
(a) From the general fund	$ 422,868	$ 478,921
(b) From the Montana university system student fee account	$ 147,934	$ 152,038
(c) From the earmarked revenue fund; university millage account	$ 138,000	$ 139,000
WESTERN MONTANA COLLEGE (Formerly Western Montana College of Education)		
1. For administrative and general expenses from the general fund	$ 146,436	$ 158,200
2. For all other programs:		
(a) From the general fund	$ 144,213	$ 140,216
(b) From the Montana university system student fee account	$ 179,302	$ 199,628
(c) From the earmarked revenue fund; university millage account	$ 230,000	$ 279,000
EASTERN MONTANA COLLEGE (Formerly Eastern Montana College of Education)		
1. For administrative and general expenses from the general fund	$ 359,793	$ 407,479
2. For all other programs:		
(a) From the general fund	$ 149,773	$ 346,512
(b) From the Montana university system student fee account	$ 509,161	$ 522,625
(c) From the earmarked revenue fund; university millage account	$ 736,000	$ 744,000
NORTHERN MONTANA COLLEGE		
1. For administrative and general expenses from the general fund	$ 183,265	$ 192,043
2. For all other programs:		
(a) From the general fund	$ 277,309	$ 408,508
(b) From the Montana university system student fee account	$ 217,547	$ 248,761

HeinOnline -- 1965 909 1965

(c) From the earmarked revenue fund; university millage account	$ 368,000	$ 326,000
WESTERN INTERSTATE COMMISSION FOR HIGHER EDUCATION		
1. From the general fund for operation	$ 26,000	$ 16,000
2. From the general fund for student enrollment fees	$ 116,600	$ 122,000
OFFICE OF EXECUTIVE SECRETARY OF MONTANA UNIVERSITY SYSTEM		
1. From the general fund for operation and capital	$ 65,500	$ 66,000
2. From the earmarked revenue fund, university millage account for equalizing the travel fares of students attending the Montana university system	$ 500	$ 500
3. From the general fund for national defense education act matching student loan funds	$ 25,000	$ 25,000
BOARD OF EDUCATION		
1. From the earmarked revenue fund university millage account for operation and capital	$ 18,835	$ 18,974

Section 7. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Approved March 15, 1965.

HOUSE BILL NO. 524

An Act to Appropriate Money to Certain State Agencies for the Biennium Ending June 30, 1967.

HeinOnline -- 1965 910 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all expenditures for salaries, all ordinary and necessary expenditures for the operation of the agency to which the appropriation applies, and repairs and maintenance.

(2) The term "salaries" means all salaries and wages of full time, part time and temporary employees.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacement of parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air conditioning systems in buildings occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall be charged with the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for construction or furnishing of buildings or purchase of land unless specifically authorized.

(5) The term "grants and benefits" means expenditures for grants to political subdivisions, associations or individuals, and includes, but is not limited to retirement and disability compensation, and unemployment benefits.

(6) The term "approved budget amendment" means approval by the state's chief budget officer upon submission to him, through the budget director.

Section 2. The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations are made; however, in cases of necessity, an appropriation not expended during the first fiscal year may be expended during the second fiscal year. Money appropriated for operation may be transferred to capital with an approved budget amendment. It is unlawful to purchase supplies for a succeeding biennium from an appropriation contained in this act. Balances of any appropriation unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

HeinOnline -- 1965 911 1965

Section 3. The following moneys are appropriated for the biennium ending June 30, 1967:

	For the Fiscal Year ending June 30, 1966	For the Fiscal Year ending June 30, 1967
STATE ENTOMOLOGIST		
From the general fund		
(1) For operation	$ 29,215.00	$ 29,335.00
(2) For capital		$ 2,700.00
STATE PLANNING BOARD		
From the general fund		
(1) For operation and capital	$ 60,000.00	$ 60,000.00
Salary for the head of the agency shall not exceed $10,800.00 per year for each year of the biennium.		
STATE HISTORICAL SOCIETY		
(1) From the general fund, for operation	$ 85,000.00	$ 85,000.00
(2) From the earmarked revenue fund, historical society, account for operation and capital	$ 116,700.00	$ 116,700.00
(3) From the revolving fund, historical society account, all income from the sale of merchandise is appropriated. Any balances remaining in this account at the end of the biennium shall revert to the earmarked revenue fund, historical society account. Revenue in excess of the estimate for the historical society account may be made available by approved budget amendment.		
BUDGET DIRECTOR		
(1) From the general fund, for operation and capital	$ 37,300.00	$ 40,000.00
Salary for the head of the agency shall not exceed $10,000.00 per year for each year of the biennium.		
COMMISSIONER OF STATE LANDS AND INVESMENTS		
From the general fund		
(1) For salaries	$ 112,500.00	$ 112,500.00

HeinOnline -- 1965 912 1965

(2) For operations	$ 38,571.00	$ 38,360.00
(3) For capital	$ 1,400.00	$ 400.00

Out of state travel shall not exceed $500.00 for the fiscal year ending June 30, 1966 and shall not exceed $200.00 for the fiscal year ending June 30, 1967.

BOARD OF PARDONS

(1) From the general fund, for operation and capital	$ 113,000.00	$ 113,000.00

Salary for the head of the agency shall not exceed $7,500.00 per year for each year of the biennium.

DIVISION OF VOCATIONAL REHABILITATION

(1) From the general fund for operation and capital	$ 160,000.00	$ 160,000.00

Capital expenditures shall not exceed $23,960.00 for the fiscal year ending June 30, 1966, and shall not exceed $23,452.00 for the fiscal year ending June 30, 1967.

(2) From the federal and private revenue fund, vocational rehabilitation account, for operation	$ 604,700.00	$ 610,100.00

(2) From the federal and private revenue fund, vocational rehabilitation special projects account, as much as may be necessary for special rehabilitation projects and operation.

(4) From the agency fund, account number 922700, industrial accident rehabilitation agency account, for grants and benefits under chapter 14, title 92, R. C. M. 1947	$ 41,000.00	$ 41,000.00

Revenues accruing to the accounts in excess of the estimates in items (2), and (4) may be made available by approved budget amendment.

HeinOnline -- 1965 913 1965

DEPARTMENT OF ADMINISTRATION		
(1) From the general fund, for operation and capital	$ 389,466.00	$ 461,084.00
(2) From the federal and private revenue fund, capital building account, for repairs and maintenance of capitol buildings	$ 20,200.00	$ 21,000.00
(3) From the earmarked revenue fund, fish and game account, for operation and capital	$ 17,500.00	$ 17,500.00
(4) From the the earmarked revenue fund, millage account, for operation and capital	$ 15,000.00	$ 15,000.00
(5) From the earmarked revenue fund, state highway account, for operation and capital	$ 60,000.00	$ 60,000.00
(6) From the earmarked revenue fund, state aviation account, for operation and capital	$ 10,000.00	$ 10,000.00
(7) From unexpended balances 1963-1965 biennium in general fund appropriations 50102, 50103, 50106, 50107	$ 60,000.00	
UNEMPLOYMENT COMPENSATION COMMISSION		
(1) From the federal and private revenue fund, unemployment administration account, for operation, debt retirement and interest	$2,269,820.00	$2,296,320.00
Revenue accruing to this account in excess of these estimates may be made available by approved budget amendment.		
STATE EXAMINER		
(1) From the general fund for operation and capital	$ 228,217.00	$ 263,566.00
(2) From unexpended balances 1963-1965 biennium in general fund appropriations 57503 and 57505	$ 28,283.00	

HeinOnline -- 1965 914 1965

(3) Capital expenditures shall not exceed $1,011.00 for the first year of the biennium, and shall not exceed $1,046.00 for the second year of the biennium.

(4) From the earmarked revenue fund, state examiners account, all fees for special examinations of offices other than state agencies are hereby appropriated.

HIGHWAY PATROL

(1) From the general fund, for operation and capital	$1,592,990.00	$1,713,350.00
(2) from unexpended balances 1963-1965 biennium in general fund appropriations 67302, 67305, and 67306	$ 87,160.00	

Salary for the head of the agency shall not exceed $11,520.50 for the fiscal year ending June 30, 1966, and shall not exceed $11,634.50 for the fiscal year ending June 30, 1967. Uniformed officials of the Highway Patrol shall receive no more than a one per cent (1%) increase in their base pay for each year of the biennium.

(3) From the earmarked revenue fund, highway account, for operation and capital	$ 54,000.00	$ 56,000.00

LIVESTOCK COMMISSION

(1) From the earmarked revenue fund, livestock commission account, for operation and capital	$ 542,236.00	$ 542,236.00

Salary for the head of the agency shall not exceed $11,000.00 for each year of the biennium.

The total salaries paid to the entire department shall be no more than $357,170.00 for the first year of the biennium, and no more than $366,-

HeinOnline -- 1965 915 1965

250.00 for the second year of the biennium.

Expenditures for out-of-state travel for members of the livestock commission shall not exceed $900.00 for each year of the biennium.

Out-of-state travel for the executive officer shall not exceed $500.00 for each year of the biennium, except in cases of emergency or on investigations.

Capital expenditures shall not exceed $2,000.00 for the first year of the biennium, and shall not exceed $3,000.00 for the second year of the biennium.

DEPARTMENT OF PUBLIC INSTITUTIONS

(1) From the general fund, for operation and capital	$ 104,250.00	$ 111,500.00
From the general fund, for the salary, travel and other costs of maintaining a social worker to assist with the placement and aftercare of juveniles	$ 13,000.00	$ 13,000.00

Capital expenditures shall not exceed $2,100.00 for the biennium.

Expenditures for out-of-state travel shall not exceed $500.00 for each year of the biennium.

The salary of the director of the agency shall not exceed $19,000.00 for the first year of the biennium, and $19,500.00 for the second year of the biennium.

ADJUTANT GENERAL

(1) From the general fund, for operation and capital	$ 287,830.00	$ 307,718.00

HeinOnline -- 1965 916 1965

(2) From unexpended balances 1963-1965 biennium in general fund appropriation 50401	$ 12,000.00	
(3) From the general fund, for operation and capital, civil defense division	$ 47,575.00	$ 47,575.00
(4) From the federal and private revenue fund, civil defense account, for operation and capital	$ 47,525.00	$ 49,237.00
(5) From the federal and private grant clearance fund, civil defense account, for operation and capital	$ 50,000.00	$ 50,000.00

The salary of the civil defense director shall be $6,600.00 per year for each year of the biennium.

The salary of the adjutant general shall be $9,000.00 per year, provided, however, that no part of said salary shall be paid by the state when the adjutant general is on extended active duty with the United States military service, or is receiving pay as a civilian employee of the federal government.

(6) From the federal and private revenue fund, for emergency planning, for operation and capital	$ 25,000.00	$ 25,000.00
(7) From the federal and private revenue fund, National Guard account, for operation and capital	$ 90,100.00	$ 90,900.00

Revenues accruing to the federal and private revenue fund and federal and private grant clearance fund in excess of these estimates in the adjutant general's appropriations in this bill, may be made available by approved budget amendment.

DEPARTMENT OF AGRICULTURE

(1) From the general fund, for operation and capital	$ 362,587.00	$ 408,375.00

HeinOnline -- 1965 917 1965

(2) From the earmarked revenue fund, highway account, for operation	$ 7,000.00	$ 7,000.00
(3) From unexpended balances, 1963-1965 biennium, general fund appropriation No. 51003	$ 28,788.00	
(4) The amount of $5,000.00 is hereby appropriated from the general fund to the revolving fund, Department of Agriculture account. From the revolving fund, Department of Agriculture account, there is appropriated all income for reimbursable expenditures for egg seals, cheese and butter inspections. Any balance remaining in this account at the end of the biennium, shall revert to the general fund.		
(5) From the earmarked revenue fund, grain services account for operation and capital	$ 198,000.00	$ 203,000.00
Revenues accruing to this account in excess of these estimates may be made available by approved budget amendment.		
(6) From the federal and private revenue fund, U. S. marketing service account, for operation	$ 15,700.00	$ 10,450.00
(7) From the earmarked revenue fund, real estate commission account, an amount sufficient to pay all legal and necessary claims.		
(8) For rust control, an amount not more than $3,700.00 shall be expended for each year of the biennium. If this amount is not used for rust control, it shall revert to the general fund.		
(9) From the earmarked revenue fund, commercial fertilizer account for operation and capital	$ 43,200.00	$ 40,500.00
(10) From the earmarked revenue fund, commercial feeds account, for operation		$ 3,000.00

HeinOnline -- 1965 918 1965

Salary for the head of the department shall not exceed $10,000.00 for each year of the biennium.

Capital expenditures from the general fund shall not exceed $6,450.00 for the first year of the biennium and shall not exceed $5,700.00 for the second year of the biennium.

Revenues accruing to the accounts in excess of estimates in items (5), (6), (9) and (10) may be made available by approved budget amendment.

LIVESTOCK SANITARY BOARD

(1) From the general fund, for operation and capital	$ 170,250.00	$ 170,250.00
(2) From the general fund, grants and benefits	$ 10,200.00	$ 10,200.00
(3) From the general fund, for meat inspection operation	$ 129,230.00	$ 126,630.00
(4) From the earmarked revenue fund, livestock sanitary board account, for operation	$ 155,350.00	$ 155,350.00

(5) There is appropriated from the earmarked revenue fund, livestock sanitary board emergency account, an amount sufficient to meet emergencies under section 84-5211, R. C. M. 1947.

Salary for the head of the agency shall be paid from the general fund, and shall not exceed $12,500.00 per year for each year of the biennium.

Expenditures for capital shall not exceed $14,815.00 for the first year of the biennium, and shall not exceed $13,103.00 for the second year of the biennium.

HeinOnline -- 1965 919 1965

STATE WATER CONSERVATION BOARD		
(1) From the general fund, for operation and capital	$ 105,000.00	$ 105,000.00
(2) From the earmarked revenue fund, water conservation account, for operation	$ 265,000.00	$ 265,000.00
Salary for the head of the agency shall be paid from the general fund and shall not exceed $10,000.00 per year for each year of the biennium.		
Capital expenditures shall not exceed $30,200.00 for the first year of the biennium, and shall not exceed $23,300.00 for the second year of the biennium.		
LIQUOR CONTROL BOARD		
(1) From the earmarked revenue fund, liquor control board account, for salaries	$1,434,200.00	$1,448,542.00
(2) From the earmarked revenue fund, liquor control board account, for operation and capital excluding salaries	$ 714,000.00	$ 700,000.00
Expenditures for capital shall not exceed $44,500.00 for the first year of the biennium, and shall not exceed $33,500.00 for the second year of the biennium.		
Revenues in excess of these estimates, for operation and capital, may be made available by approved budget amendment.		
Expenditures for out-of-state travel shall not exceed $4,000.00 for the biennium.		
DEPARTMENT OF PUBLIC WELFARE		
(1) From the general fund, for operation, capital and welfare aid payments	$2,164,855.00	$3,087,623.00

HeinOnline -- 1965 920 1965

(2) From the general fund to implement the provisions of senate bill 111, the amount of $17,000.00. Federal funds available for the purpose of this program are hereby appropriated.

(3) From the federal and private revenue fund, department of public welfare account, for operation, capital and welfare aid payments .....$ 969,750.00 $1,006,200.00

Grant-in-aid payments shall be in the amount of $250,000.00 each year of the biennium, and it is further provided that surplus funds may also be used for grant-in-aid payments.

Revenue in excess of these estimates may be made available by approved budget amendment.

Any funds available to the welfare department which are unexpended during the biennium ending June 30, 1965, are hereby reappropriated to the biennium ending June 30, 1967.

Salary for the administrator of the department shall not exceed $11,500.00 per year for each year of the biennium.

STATE PARKS

(1) From the general fund, for operation and capital .....$ 100,000.00 $ 100,000.00

Concessions payments shall not exceed $25,500 from the general fund for the biennium for payment to Link Brothers at Lewis and Clark Caverns.

(2) From the federal and private revenue fund, Canyon Ferry-Tiber account, for development of Canyon Ferry and Tiber state parks, for operation and capital .....$ 10,000.00 $ 11,000.00

Revenues accruing to the federal and private revenue fund, Canyon

HeinOnline -- 1965 921 1965

Ferry-Tiber account in excess of these estimates may be made available by approved budget amendment.

(3) From the earmarked revenue fund, state parks account, for operation, maintenance, land acquisition and capital at those state parks where motor boating is permitted .....$ 335,000.00 $ 335,000.00

Revenues accruing to the earmarked revenue fund, state parks account in excess of these estimates may be made available by approved budget amendment.

Salary for the head of the agency shall not exceed $8,640.00 for the first year of the biennium, and shall not exceed $9,000.00 for the second year of the biennium.

Expenditures for travel shall not exceed $4,700.00 for the first year of the biennium, and shall not exceed $4,500.00 for the second year of the biennium.

DEPARTMENT OF ADMINISTRATION

(1) From the general fund, for operation and capital .....$ 20,000.00

(2) All revenue derived from central data processing performed by the department of administration shall be deposited to the revolving fund, general service account. All moneys deposited in the revolving fund, general services account are appropriated to the department of administration, general services division for central data processing.

Section 4. In addition to the amounts specifically appropriated by this act, all federal moneys and other income to which an agency included in this act is entitled, may be made available by approved budget amendment.

Approved March 15, 1965.

HeinOnline -- 1965 922 1965

HOUSE BILL NO. 525

An Act to Appropriate Money to the Attorney General, State Auditor, Governor, Railroad and Public Service Commission, Secretary of State, Supreme Court, State Treasurer and Superintendent of Public Instruction for Operation and Capital for the Biennium Ending June 30, 1967.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise stated:

(1) The term "operation" means all ordinary and necessary expenditures for operation of the institution to which the appropriation applies, and repairs and maintenance, but does not include personal services.

(2) The term "personal services" means all salaries and wages of full time, part time and temporary employees of the state and includes the state's contribution for social security, public employees' retirement, teachers' retirement, and industrial accident insurance.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacement of parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air conditioning system in buildings occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall be charged with the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for construction or furnishing of buildings or purchase of land unless specifically authorized.

Section 2. The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations are made; however, in cases of necessity, an appropriation not expended during the first fiscal year may be expended during the second fiscal year. It is unlawful to purchase supplies for a succeeding biennium from an appropriation contained in this act without the approval of the budget director. Balances of any appropriation unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated. Transfer between accounts may be made by approval of the Board of Exam-

HeinOnline -- 1965 923 1965

iners. No money from the appropriations contained in this act shall be used for central data processing or other consolidated services performed by the department of administration, except at the discretion of the official involved.

Section 3. The following moneys are appropriated for the biennium ending June 30, 1967:

	For the Fiscal Year ending June 30, 1966	For the Fiscal Year ending June 30, 1967
ATTORNEY GENERAL		
1. Salaries and wages		
(a) From general fund	$106,000	$112,000
(b) From the agency fund, escheated estates account	$ 11,000	$ 11,100
2. Employee benefits		
(a) From general fund	$ 5,000	$ 5,000
(b) From the agency fund, escheated estates account	$ 385	$ 385
3. For operation		
(a) From unexpended balance 1963-1965 biennium in general fund appropriation 51803	$ 11,756	
(b) From general fund	$ 5,369	$ 15,425
4. For capital		
(a) From general fund	$ 2,000	$ 2,000
ESCHEATED ESTATES		
1. For operation		
(a) The amount of $7,600 is appropriated from the agency fund, escheated estates account to the earmarked revenue fund, escheated estates account. From the earmarked revenue fund, escheated estates account	$ 3,800	$ 3,800
(b) From general fund	$ 10,000	
For court costs involved in habeas corpus writs. Money from this account shall not be used for, or transferred to, any other purpose.		
GOVERNOR		
1. For salaries and wages		
(a) From general fund	$ 60,500	$ 61,000

HeinOnline -- 1965 924 1965

2. For employee benefits		
(a) From general fund	$ 3,630	$ 3,660
3. For operation		
(a) From unexpended balance 1963-1965 biennium in general fund appropriation 59003	0	0
(b) For operation from general fund	$ 11,000	$ 11,000
4. For capital		
(a) From general fund	$ 750	$ 250

GOVERNOR'S MANSION

1. For salaries and wages		
(a) From general fund	$ 6,450	$ 6,840
2. For employee benefits		
(a) From general fund	$ 516	$ 547
3. For operation		
(a) From general fund	$ 5,000	$ 5,200
4. For capital		
(a) From general fund	$ 700	$ 200

BOARD OF RAILROAD COMMISSIONERS

1. For salaries and wages		
(a) From general fund	$132,160	$138,530
2. For employee benefits		
(a) From the general fund	$ 8,064	$ 8,064
3. For operation		
(a) From unexpended balance 1963-1965 biennium in general fund appropriation 68603	$ 15,540	
(b) For operation from general fund	$ 33,000	$ 36,000
4. For capital		
(a) From general fund	$ 5,800	$ 3,140
5. For administration of the "Protection of Copyright Users Act"		
(a) From the earmarked revenue fund, copyright commission ac-		

HeinOnline -- 1965 925 1965

count, as much as may be necessary to administer the "Protection of Copyright Users Act."

SECRETARY OF STATE

1. For salaries and wages		
(a) From general fund	$ 72,250	$ 79,250
2. For employee benefits		
(a) From general fund	$ 5,400	$ 5,400
3. For operation		
(a) From general fund	$ 16,000	$ 26,500
4. For capital		
(a) From general fund	$ 1,500	$ 500
5. From unexpended balance 1963-1965 biennium in general fund appropriation 69704		
(a) For completion of corporation file transfer	$ 11,862	

SUPREME COURT

1. For salaries and wages		
(a) From general fund	$143,600	$145,850
2. For employee benefits		
(a) From general fund	$ 5,800	$ 5,800
3. For operation		
(a) From unexpended balance 1963-1965 biennium in general fund appropriation 72603	$ 1,113	
(b) For operation from general fund	$ 17,000	$ 15,000
4. For capital		
(a) From general fund	$ 1,200	$ 1,200

ATTORNEY'S EXAMINING BOARD

1. For operation		
(a) From general fund	$ 7,000	$ 7,000

LAW COMMISSIONS

1. For operation		
(a) From general fund	$ 7,500	$ 7,500

HeinOnline -- 1965 926 1965

STATE TREASURER

1. For personal services		
(a) From general fund	$ 37,980	$ 39,600
(b) From earmarked revenue fund, unclaimed property account	$ 5,784	$ 5,989
2. For operation		
(a) From unexpended balance 1963-1965 biennium in general fund appropriation 74003	$ 1,000	
(b) For operation from general fund	$ 3,485	$ 4,250
3. For capital		
(a) From general fund	$ 400	$ 500
For administration of the uniform disposition of unclaimed property act, from the agency fund, unclaimed property account		
1. Salaries and wages	$ 5,400	$ 5,700
2. Employee benefits	$ 384	$ 384
3. Operation	$ 3,175	$ 3,600
4. Capital	$ 750	$ 750

STATE SUPERINTENDENT
OF PUBLIC INSTRUCTION

1. From the general fund for all duties and services of the office of the superintendent of public instruction except vocational education.		
(a) Personal services	$215,372	$216,633
(b) Operation	$ 64,413	$ 64,606
(c) Capital	$ 48,825	$ 46,900
2. From the general fund for the improvement of instruction in civics, history, geography, English, and remedial reading under the provisions of P. L. 886-65, for salaries and wages, employee benefits and operation	$ 30,000	$ 30,000
3. From the general fund for vocational education, salaries and wages	$ 41,000	$ 41,500

HeinOnline -- 1965 927 1965

4. From the earmarked revenue fund, school equalization aid account, for all duties and services of the office of the superintendent of public instruction except vocational education, salaries and wages, employee benefits, operation and capital	$132,912	$133,611
5. From the earmarked revenue fund, school equalization aid account, for vocational education, salaries and wages, employee benefits, operation and capital	$ 43,335	$ 43,400
6. From the earmarked revenue fund, school equalization aid account, for distribution to schools for vocational education	$ 45,000	$ 45,000
7. The amount of $25,000 is appropriated from the earmarked revenue fund, school equalization aid account, to the revolving fund, school lunch program account, to cover the handling charges of commodities to districts, to be reimbursed by such districts. Any balance remaining in the revolving fund, school lunch program account, at the end of the biennium shall revert to the earmarked revenue fund, school equalization aid account.		
8. From the federal and private revenue fund for area redevelopment, area vocational program, civil defense, adult education, administration of the George-Barden Act, Indian education administration, national defense education act (P. L. 85-864) and (P. L. 886-65), administration of the Smith-Hughes Act, manpower development and training act, and practical nursing, salaries and wages, employee benefits, operation and capital	$206,452	$205,444
9. Revenues received in excess of the estimates in subsection (8) and revenues received for federal programs other than		

HeinOnline -- 1965 928 1965

those listed in subsection (8) are hereby appropriated.

STATE AUDITOR

1. For personal services, from the general fund	$124,308	$145,200
2. From the unexpended balance 1963-1965 biennium in general fund appropriation	$ 20,492	
3. For salaries and wages for administration from the earmarked revenue fund, highway account	$ 20,000	$ 20,000
4. For operation from unexpended balance 1963-1965 biennium in general fund appropriation	$ 20,491	
5. For operation for administration, insurance, investment and fire marshal from the general fund	$ 20,000	$ 40,492
6. For capital for administration, insurance, investment and fire marshal from general fund	$ 3,000	$ 4,000
7. From the general fund for auditing insurance and investment companies	$ 15,600	$15,600
8. From the firemen's disability fund for the payment of the distribution of the firemen's disability fund, as provided in section 11-1919, R. C. M. 1947, an appropriation sufficient to meet the requirements as provided by law.		

Section 4. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Approved March 15, 1965.

HOUSE BILL NO. 526

An Act to Appropriate Money to Certain State Institutions For the Biennium Ending June 30, 1967.

HeinOnline -- 1965 929 1965

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For purposes of this act, unless otherwise stated:

(1) The term "operation" means all ordinary and necessary expenditures for operation of the institution to which the appropriation applies, and repairs and maintenance, but does not include personal services.

(2) The term "personal services" means all salaries and wages of full time, part time and temporary employees of the state and includes the state's contribution for social security, public employees' retirement, teachers' retirement and industrial accident insurance.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacement of parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air conditioning systems in buildings occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall be charged with the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for construction or furnishing of buildings or purchase of land unless specifically authorized.

(5) The term "approved budget amendment" means approval by the state's chief budget officer upon submission to him, through the budget director.

Section 2. The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations are made; however, in cases of necessity, an appropriation not expended during the first fiscal year may be expended during the second fiscal year. Money appropriated for operation may be transferred to capital with an approved budget amendment. It is unlawful to purchase supplies for a succeeding biennium from an appropriation contained in this act without the approval of the budget director. Balances of any appropriation unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

HeinOnline -- 1965 930 1965

Section 3. Unless otherwise provided in this act, all moneys received or collected from any source whatsoever by the institutions named in this act shall be deposited in the state treasury and credited to the proper fund as provided by section 79-601, R. C. M. 1947.

Section 4. The salary of the chief administrator of each institution shall be determined by the appointing authority in accordance with statutory provisions, but in no case shall the salary determined exceed the amount set out in this act for any specific institution.

Section 5. In addition to the amounts specifically appropriated by this act, there is appropriated to each institution all federal moneys, income from land grants and trust funds to which it is entitled, subject to statutory provisions, obligations of outstanding bond issues and may be made available by approved budget amendment.

Section 6. The following moneys are appropriated for the biennium ending June 30, 1967:

STATE CHILDREN'S CENTER	For the Fiscal Year ending June 30, 1966	For the Fiscal Year ending June 30, 1967
(1) From the general fund for operation and capital	$ 205,826.00	$ 208,470.00
(2) From the general fund for personal services	$ 277,174.00	$ 282,717.00
Salary for the superintendent shall not exceed $10,000.00 per year for each year of the biennium		
STATE HOSPITAL		
(1) From the general fund for operation and capital	$ 832,502.00	$ 827,502.00
(2) From the general fund for personal services	$3,001,098.00	$3,074,488.00
Salary of the superintendent shall be paid from the general fund and shall not exceed $20,500 for the first year of the biennium, and $21,500 for the second year of the biennium.		
(3) From the federal and private revenue fund, mental hygiene account,		

HeinOnline -- 1965 931 1965

for operation, capital and personal services	$ 190,000.00	$ 190,000.00
Revenue accruing to the federal and private revenue fund, mental hygiene account, in excess of these estimates may be made available upon an approved budget amendment.		
MONTANA CENTER FOR THE AGED		
(1) From the general fund for operation and capital	$ 81,675.00	$ 85,380.00
(2) From the general fund for personal services	$ 118,025.00	$ 120,385.00
Salary for the superintendent shall not exceed $8,000.00 for the first year of the biennium, and $8,500.00 for the second year of the biennium.		
STATE SCHOOL FOR THE DEAF AND BLIND		
(1) From the general fund for operation and capital	$ 19,610.00	$ 17,640.00
(2) From the general fund for personal services	$ 208,390.00	$ 227,360.00
Salary of the superintendent shall be paid from the general fund and shall not exceed $10,000.00 per year for each year of the biennium.		
STATE TUBERCULOSIS SANITARIUM		
(1) From the general fund for operation and capital	$ 306,098.00	$ 304,676.00
(2) From the general fund for personal services	$ 899,102.00	$ 934,824.00
(3) From the agency fund, T. B. sanitarium account, for personal services	$ 3,500.00	$ 4,000.00
Revenues accruing to the agency fund, T.B. sanitarium account in ex-		

HeinOnline -- 1965 932 1965

cess of these estimates may be made available by approved budget amendment.

Salary of the superintendent shall be paid from the general fund and shall not exceed $20,000.00 for the first year of the biennium, and $21,000.00 for the second year of the biennium.

MONTANA VETERANS' HOME

(1) From the general fund for operation and capital	$ 62,492.00	$ 57,446.00
(2) From the general fund, for personal services	$ 30,583.00	$ 32,494.00
(3) From the federal and private revenue fund, soldier's home account, for personal services	$ 65,000.00	$ 65,000.00

Revenues accruing to the federal and private revenue fund, soldier's home account in excess of these estimates may be made available by approved budget amendment.

Salary for the commandant shall be paid from the general fund and shall not exceed $6,250.00 for the first year of the biennium, and $6,500.00 for the second year of the biennium.

STATE PRISON

(1) From the general fund for personal services for all programs other than education and rehabilitation	$ 945,531.00	$ 987,433.00

(a) The salary of the warden shall be paid from the general fund and shall not exceed $10,500.00 for the first fiscal year and $11,000.00 for the second fiscal year of the biennium.

(b) No commissary privileges, subsistence or maintenance other than housing shall be furnished to employ-

HeinOnline -- 1965 933 1965

ees of the state prison other than the warden.		
(2) From the general fund for the education and rehabilitation program, for operation, capital and personal services	$ 27,421.00	$ 27,724.00
(3) From the general fund for operation and capital for programs other than education and rehabilitation	$ 579,856.00	$ 571,890.00
(4) From the earmarked revenue fund, motor vehicle recording account, to defray expenses borne by the state prison in administering the law relating to motor vehicle registration, for personal services	$ 173,000.00	$ 173,000.00
(5) From the earmarked revenue fund, prison industries account, for operation and capital for programs other than education and rehabilitation	$ 50,000.00	$ 50,000.00
(6) From unexpended balance 1963-65 biennium in prison general fund appropriation for operation and capital, for personal services	$ 20,000.00	$ 20,000.00
STATE INDUSTRIAL SCHOOL		
(1) From the general fund for operation and capital	$ 191,010.00	$ 198,125.00
(2) From the general fund for personal services	$ 436,883.00	$ 476,409.00
Salary of the superintendent shall be paid from the general fund and shall not exceed $10,500.00 per year for each year of the biennium.		
VOCATIONAL SCHOOL FOR GIRLS		
(1) From the general fund for operation and capital	$ 90,591.00	$ 84,321.00
(2) From the general fund for personal services	$ 213,609.00	$ 218,336.00

HeinOnline -- 1965 934 1965

Salary of the superintendent shall not exceed $8,000.00 for the first year of the biennium, and $8,500.00 for the second year of the biennium.

STATE TRAINING SCHOOL

(1) From the general fund for operation and capital	$ 453,911.00	$ 445,931.00
(2) From the general fund for personal services	$1,067,398.00	$1,092,051.00
(3) From the federal and private revenue fund, training school account, for operation and capital	$ 136,800.00	$ 136,800.00

Salary of the superintendent shall not exceed $11,000.00 per year for each year of the biennium.

Section 7. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 15, 1965.

HOUSE BILL NO. 528

An Act to Appropriate Money For the Support of Public Schools; Reappropriating Certain Unexpended Balances Remaining on June 30, 1965; Appropriating Moneys For the Foundation Program and School Transportation Payments For the Biennium Ending June 30, 1967; and Appropriating Undistributed State Equalization Aid Remaining on June 30, 1966, and on June 30, 1967, For Per Pupil Payments to Counties; and Providing For Appropriations For Payments to School Districts For Children of a State Employee Residing on the Property of a State Institution Who Attend School in the District, For the Fiscal Years Ending June 30, 1966, and June 30, 1967.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Unexpended balances remaining in certain specific accounts on June 30, 1965, are reappropriated, and are hereby appropriated, for payments to public schools as follows:

HeinOnline -- 1965 935 1965

(1) From the general fund, account number 635-1, for payment of state equalization aid to common school districts, high school districts and county high schools in accordance with the school foundation program for the fiscal year ending June 30, 1966, any unexpended balance;

(2) From the general fund, account number 635-2, for payment of transportation aid in accordance with Montana school law for the fiscal year ending June 30, 1966, any unexpended balance;

(3) From the earmarked revenue fund, state equalization aid account number 221700, for payment of state equalization aid to common school districts, high school districts and county high schools in accordance with the school foundation program for the fiscal year ending June 30, 1966, any unexpended balance.

Section 2. In addition to the foregoing appropriations, the following moneys are appropriated for the biennium ending June 30, 1967:

	For the Fiscal Year ending June 30, 1966	For the Fiscal Year ending June 30, 1967
(1) From the general fund for payment of state equalization aid to common school districts, high school districts and county high schools in accordance with the school foundation program, an amount not to exceed	$12,650,000.00	$13,200,000.00

In each year of the biennium, the amount of this appropriation shall be reduced by an amount equal to the deposits, if any, during such year in the earmarked revenue fund, state equalization aid account, from contractors' license fees in accordance with the provisions of House Bill 506.

(2) From the general fund for payment of transportation aid in accordance with Montana school law	$ 1,143,000.00	$ 1,190,000.00
(3) From the earmarked revenue fund, state equalization aid account number 221700, for payment of state equalization aid to common school districts, high school districts and county high schools, as much as necessary to fulfill the legal obli-		

HeinOnline -- 1965 936 1965

gations of the school foundation program.

Section 3. In addition to the foregoing appropriations, unexpended balances remaining in certain specific accounts on June 30, 1966, are hereby appropriated for payments to counties in accordance with the per-pupil payment formula pertaining to undistributed state equalization aid as provided in section 75-3616, R. C. M. 1947, as amended:

(1) From the general fund, account number 635-1, any unexpended balance;

(2) From the earmarked revenue fund, account number 221700, any unexpended balance.

Section 4. In addition to the foregoing appropriations, unexpended balances remaining in certain specific accounts on June 30, 1967, are hereby appropriated for payments to counties in accordance with the per-pupil payment formula pertaining to undistributed state equalization aid as provided in section 75-3616, R. C. M. 1947, as amended:

(1) From the general fund, account number 635-1, any unexpended balance;

(2) From the earmarked revenue fund, account number 221700, any unexpended balance.

Section 5. In addition to the foregoing appropriations, moneys from the earmarked revenue fund, state equalization aid account number 221700, are hereby appropriated for payments to school districts in accordance with the provisions of "An Act Providing For Payments By The State To School Districts If Children Of A State Employee Who Resides On The Property Of A State Institution Attend School In The District".

(1) For the fiscal year ending June 30, 1966, as much as may be necessary to fulfill the legal obligations of the act;

(2) For the fiscal year ending June 30, 1967, as much as may be necessary to fulfill the legal obligations of the act.

Section 6. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 15, 1965.

HeinOnline -- 1965 937 1965

HOUSE BILL NO. 529

An Act to Appropriate Money to Certain State Agencies For the Biennium Ending June 30, 1967.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all expenditures for salaries, employee benefits, all ordinary and necessary expenditures for the operation of the agency to which the appropriation applies, and repairs and maintenance.

(2) The term "salaries" means all salaries and wages of full time, part time and temporary employees.

(3) The term "employees' benefits" means the state's contribution for social security, public employees' retirement, teachers' retirement and industrial accident insurance.

(4) The term "repairs and maintenance" means repairs to equipment and the cost of replacement of parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air conditioning systems in buildings occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alterations of existing buildings are capital expenditures and are not repairs and maintenance.

(5) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall be charged with the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for construction or furnishing of buildings or purchase of land unless specifically authorized.

(6) The term "grants and benefits" means expenditures for grants to political subdivisions, associations or individuals, and includes, but is not limited to retirement and disability compensation, and unemployment benefits.

(7) The term "approved budget amendment" means approval by the state's chief budget officer upon submission to him, through the budget director.

Section 2. The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations are made; however, in cases of necessity, an appropriation not expended during the first fiscal year may be expended during the second fiscal year. Money appropri-

HeinOnline -- 1965 938 1965

ated for operation may be transferred to capital with an approved budget amendment. It is unlawful to purchase supplies for a succeeding biennium from an appropriation contained in this act. Balances of any appropriation unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

Section 3. The following moneys are appropriated for the biennium ending June 30, 1967:

	For the Fiscal Year ending June 30, 1966	For the Fiscal Year ending June 30, 1967
MILK CONTROL BOARD		
(1) From the earmarked revenue fund, milk control account, operation and capital	$ 102,400.00	$ 99,700.00
Salaries and employees' benefits shall not exceed $60,400.00 for the first year of the biennium and $62,500.00 for the second year of the biennium.		
Revenues accruing to this fund in excess of these estimates may be made available by approved budget amendment.		
Salary for the head of the agency shall not exceed $8,500.00 per year for each year of the biennium.		
Capital expenditures shall not exceed $1,000.00 for the first year and $1,200.00 for the second year of the biennium.		
PUBLIC EMPLOYEES' RETIREMENT SYSTEM		
(1) From the earmarked revenue fund, public employees' retirement account, for operation and capital	$ 119,009.00	$ 122,123.00
(2) From the earmarked revenue fund, social security division account, for operation and capital	$ 38,375.00	$ 38,425.00
Capital expenditures shall not exceed $1,000.00 for either year of the biennium.		

HeinOnline -- 1965 939 1965

Salary for the secretary of the PERS shall not exceed $10,500.00 for either year of the biennium.

Total salaries for the department shall not exceed $101,936.00 for either year of the biennium.

ATHLETIC COMMISSION

(1) From the earmarked revenue fund, veterans' memorial account, for operation and capital	$ 850.00	$ 1,000.00

STATE FORESTER

(1) From the general fund for operation and capital	$ 280,844.00	$ 279,374.00
(2) From the earmarked revenue fund, fire protection account, for operation and capital	$ 8,437.00	$ 8,437.00
(3) From the earmarked revenue fund, forester's nursery account, for operation and capital	$ 45,000.00	$ 45,000.00
(4) From the earmarked revenue fund, slash and brush disposal account, for operation and capital	$ 258,799.00	$ 259,265.00
(5) From the earmarked revenue fund, timber stand improvement account, for operation and capital	$ 37,500.00	$ 43,500.00
(6) From the federal and private revenue fund, Clark-McNary account, for operation and capital	$ 165,400.00	$ 165,400.00
(7) From the federal and private revenue fund, cooperative forest management account, for operation and capital	$ 27,720.00	$ 24,730.00
(8) From the agency fund, fire protection account, for operation and capital	$ 86,373.00	$ 86,373.00

Revenues in excess of the estimate in subsections (2), (3), (4), (5), (6), (7) and (8) may be made

HeinOnline -- 1965 940 1965

available by approved budget amendment.

FISH AND GAME COMMISSION		
(1) From the earmarked revenue fund, fish and game account, for operation and capital	$ 2,499,108.00	$ 2,668,859.00
(2) From the federal and private revenue fund, fish and game account, and such federal funds in excess of $600,500.00 for each year of the biennium as are made available on a matching basis from Dingle-Johnson and Pitman-Robinson acts, for operation and capital	$ 600,500.00	$ 600,500.00
GRASS CONSERVATION COMMISSION		
(1) From the earmarked revenue fund, grass conservation commission account, for operation	$ 8,200.00	$ 8,200.00
Revenues accruing to this fund in excess of these estimates may be made available by approved budget amendment.		
BOARD OF HAIL INSURANCE		
(1) From the earmarked revenue fund, hail insurance administration account, operation and capital	$ 40,302.00	$ 40,519.00
Salary for the head of the agency shall not exceed $7,500.00 per year for each year of the biennium.		
CO-ORDINATOR OF INDIAN AFFAIRS		
(1) From the general fund, operation and capital	$ 10,965.00	$ 11,215.00
LAW LIBRARY		
(1) From the general fund for operation and capital	$ 21,852.00	$ 21,452.00

HeinOnline -- 1965 941 1965

TEACHERS RETIREMENT SYSTEM		
(1) From the earmarked revenue fund, teachers' retirement administration account, for operation and capital	$ 72,150.00	$ 67,200.00
Salary for the Executive Secretary of the TRS shall not exceed $10,500.00 for either year of the biennium.		
Revenue in excess of these estimates may be made available by approved budget amendment.		
DEPARTMENT OF LABOR AND INDUSTRY		
(1) From the general fund for operation and capital	$ 38,163.00	$ 38,163.00
The salary for the commissioner of labor and industry shall not exceed $7,500.00 per year for the biennium.		
The salary for the director of apprenticeship shall not exceed $7,200.00 per year for the biennium.		
INDUSTRIAL ACCIDENT BOARD		
(1) From the general fund for the silicosis program, operation	$ 409,000.00	$ 600,000.00
(2) From the earmarked revenue fund, industrial accident administration account, operation and capital	$ 578,312.00	$ 572,937.00
Revenues accruing to this fund in excess of the estimate may be made available by approved budget amendment.		
(3) From the earmarked revenue fund, volunteer firemen's compensation account, for grants and benefits	$ 5,000.00	$ 5,000.00

HeinOnline -- 1965 942 1965

All legal and necessary claims in excess of these estimates may be paid without the budget amendment.		
(4) From the unexpended balances, 1963-1965 biennium, in general fund appropriation 62602, not more than	$ 191,000.00	0
The salary for the chairman shall not exceed $10,000.00 per year for the coming biennium.		
Upon approval of House Bill 407 there is hereby appropriated from the general fund	$ 54,000.00	$ 9,000.00
MONTANA STATE LIBRARY COMMISSION		
(1) From the general fund, operation and capital	$ 75,000.00	$ 75,000.00
(2) From the federal and private revenue fund, library commission account, for operations	$ 68,000.00	$ 68,000.00
Revenues accruing to this account in excess of these estimates may be made available by approved budget amendment.		
Salary for the head of the agency shall be paid from the general fund and shall not exceed $9,500.00 per year for each year of the biennium.		
Capital expenditures from the general fund shall not exceed $25,000.00 per year for each year of the biennium.		
(3) From the federal and private grant clearance fund, library development account	$ 288,000.00	$ 288,000.00
Revenues accruing to this account in excess of these estimates are hereby appropriated.		

HeinOnline -- 1965 943 1965

STATE BOARD OF EQUALIZATION

(1) From the general fund for operation and capital	$ 408,950.00	$ 472,800.00
(2) From the earmarked revenue fund, highway account, for operation and capital	$ 144,000.00	$ 152,500.00
(3) From the earmarked revenue fund, public school equalization account, for operation and capital	$ 93,000.00	$ 95,000.00
(4) From the earmarked revenue fund, from the aeronautics commission account, for operation and capital	$ 15,000.00	$ 15,000.00
(5) From unexpended balances, 1963-65 biennium, in general fund appropriations 58003, 58004 and 58006, not more than	$ 50,000.00	0

Capital expenditures shall not exceed $5,500.00 for the first year of the biennium and $10,250.00 for the second year of the biennium.

OIL AND GAS CONSERVATION COMMISSION

(1) From the earmarked revenue fund, oil and gas conservation account, operation and capital	$ 169,000.00	$ 170,850.00

All legal and necessary claims in excess of these estimates may be paid from this account without approved budget amendment.

THE JOINT MERIT SYSTEM

(1) From the earmarked revenue fund, merit system account, for operation and capital	$ 34,098.00	$ 34,370.00

Capital expenditures shall not exceed $500.00 for the first year of the biennium and $300.00 for the second year of the biennium.

HeinOnline -- 1965 944 1965

Supervisor's salary shall not exceed $10,020.00 for either year of the biennium.

Revenues accruing to the account (1) above in excess of these estimates may be made available by approved budget amendment.

STATE ENGINEER

(1) From the general fund, operation and capital	$ 159,615.00	$ 159,880.00

Salary for the head of the agency shall not exceed $10,000.00 per year for each year of the biennium.

Capital expenditures shall not exceed $5,300.00 for the fiscal year ending June 30, 1966; and shall not exceed $2,700.00 for the fiscal year ending June 30, 1967.

Administrative travel shall not exceed $3,500.00 per year for each year of the biennium.

STATE BOARD OF EXAMINERS

(1) From the general fund for operation and capital	$ 53,189.30	$ 53,189.30

Salary for the head of the agency shall not exceed $9,000.00 per year for each year of the biennium.

Capital expenditures shall not exceed $400.00 for the biennium.

(2) From the general fund, for contracted services to Montana veterans, their widows and orphans, on claims before the Veterans Administration of the United States	$ 6,000.00	$ 6,000.00
(3) From the general fund, for extradition and transportation of prisoners	$ 60,000.00	$ 60,000.00

HeinOnline -- 1965 945 1965

(4) From the general fund, for fire and casualty insurance premiums on state property	$ 108,200.00	$ 109,000.00
(5) From the earmarked revenue fund, fish and game account, for payment of fire and casualty insurance premiums on state property	$ 5,300.00	$ 5,300.00
(6) From the earmarked revenue fund, highway account, for payment of fire and casualty insurance premiums on state property	$ 39,000.00	$ 39,000.00
(7) From the earmarked revenue fund, millage account, for payment of fire and casualty insurance premiums on state property	$ 103,000.00	$ 110,000.00
(8) From the earmarked revenue fund motor vehicle recording account, for payment of fire and casualty insurance premiums on state property	$ 300.00	$ 300.00

VETERANS' WELFARE COMMISSION

(1) From the general fund for operation and capital	$ 140,256.00	$ 143,839.00

Salaries and employees' benefits shall not exceed $110,056.00 for the first year of the biennium and shall not exceed $113,189.00 for the second year of the biennium.

Veterans' Welfare Director shall not receive more than $7,800.00 for either year of the biennium.

Capital expenditures shall not exceed $500.00 for the first year of the biennium and shall not exceed $450.00 for the second year of the biennium.

SOIL CONSERVATION COMMITTEE

(1) From the general fund, operation and capital	$ 17,000.00	$ 17,000.00

HeinOnline -- 1965 946 1965

Salary for the head of the agency shall not exceed $7,200.00 per year for each year of the biennium.

DISTRICT JUDGES

(1) From the general fund, for salaries and operation .....$ 443,500.00 $ 444,500.00

Salaries and employees' benefits shall not exceed $413,000.00 for each year of the biennium.

AERONAUTICS COMMISSION

(1) From the earmarked revenue fund, aeronautics commission account, operation and capital .....$ 356,039.00 $ 335,456.00

Salary for the head of the agency shall not exceed $12,000.00 per year for each year of the biennium.

Capital expenditures shall not exceed $52,000.00 for the fiscal year ending June 30, 1966; and shall not exceed $45,000.00 for the fiscal year ending June 30, 1967.

(2) From the earmarked revenue fund, aeronautics commission account, for engineering grants .....$ 14,000.00 $ 7,000.00

(3) From the earmarked revenue fund, aeronautics commission account, for state airport construction, maintenance, and repair, as authorized by law, including state airport land purchases .....$ 115,000.00 $ 115,000.00

(4) From the earmarked revenue fund, aeronautics commission account, as much as may be necessary for construction loans. Every municipality is authorized to accept, receive, receipt for, disburse and expend such state moneys made available for such state loans. All state moneys accepted by a muni-

HeinOnline -- 1965 947 1965

cipality shall be accepted and expended by such municipality upon such terms and conditions as are prescribed by the state. The term 'municipalities' as used herein shall have the meaning given to such term by the Municipal Airports Act (section 1-808, R. C. M. 1947). .....$	435,000.00	$ 455,180.00
(5) From the revolving fund, aeronautics commission account, for state airport operations .....$	41,307.00	$ 45,182.00
(6) From federal grant clearance fund, aeronautics commission account, all moneys appropriated by federal government for specific airport projects		
BOARD OF HEALTH		
(1) From the general fund for operation and capital .....$	496,000.00	$ 509,000.00
(2) From the federal and private revenue fund, public health account, for operation and capital .....$	748,581.00	$ 705,225.00
Revenues received in excess of these amounts may be made available by approved budget amendment. The salary of the executive officer shall be $17,000.00 for each year of the biennium.		
HIGHWAY COMMISSION		
(1) From the earmarked revenue fund, state highway account, for operation and capital .....$	29,443,830.00	$27,239,160.00
From this amount shall be spent not more than $150,000.00 per year of the biennium for operation of the state advertising department, and not more than $10,000.00 for the biennium for the promotion of the National Boy Scout Jamboree to be held in Montana.		

HeinOnline -- 1965 948 1965

(2) From the federal and private revenue fund, state highway account, for operation and capital	$49,500,000.00	$48,250,000.00

Expenditures for administration shall not exceed $1,054,430.00 for the first fiscal year of the biennium and shall not exceed $1,059,360.00 for the second year of the biennium. Revenues accruing to these funds in excess of these estimates may be made available by an approved budget amendment. From these amounts there shall be no more than $32,000.00 spent for the purchase of the following described tract of land: Lot 3, Block 18, of the Flowerree addition to the city of Helena. As used in this paragraph, the word "administration" means the program referred to on page 188 of the state of Montana budget book.

Salary for the department head shall not exceed $16,200.00 per year for each year of the biennium.

REGISTRAR OF MOTOR VEHICLES

(1) From the earmarked revenue fund, motor vehicle recording account, for operation and capital	$ 178,800.00	$ 112,500.00
(2) From the earmarked revenue fund, motor vehicle recording account, for personal services	$ 265,323.00	$ 270,629.00

Revenue in excess of these estimates may be made available by approved budget amendment.

ADJUSTED COMPENSATION DIVISION

From the earmarked revenue fund, War Veterans Compensation Account	$ 17,000.00	$ 16,500.00

HeinOnline -- 1965 949 1965

COUNTY ATTORNEYS

From the general fund for operation and capital	$ 134,500.00	$ 149,200.00

Section 4. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 15, 1965.

HOUSE BILL NO. 530

An Act to Appropriate Money to Certain Licensing and Examining Boards for the Biennium Ending June 30, 1967.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise stated:

(1) The term "operation" means all expenditures for personal services, all ordinary and necessary expenditures for the operation of the agency to which the appropriation applies, and repairs and maintenance.

(2) The term "personal services" means all salaries and wages of full time, part time and temporary employees of the state and includes the state's contribution for social security, public employees' retirement, teachers' retirement and industrial accident insurance.

(3) The term "repairs and maintenance" means repairs to equipment and the cost of replacement of parts of equipment, repairs to buildings and to the plumbing, heating, wiring and air conditioning systems in buildings occasioned by ordinary wear and tear or by physical damage, and the cost of painting the exteriors and interiors of buildings. Major alteration of existing buildings are a capital expenditure and are not repairs and maintenance.

(4) The term "capital" means those items which do not lose their identity, which are adaptable to continuing use and have a useful life of more than one (1) year. Capital shall be charged with the replacement of existing capital assets, as well as new acquisitions, but does not include expenditures for construction or furnishing of buildings or purchase of land unless specifically authorized.

HeinOnline -- 1965 950 1965

(5) The term "approved budget amendment" means approval by the state's chief budget officer upon submission to him, through the budget director.

Section 2. The appropriations contained in this act are intended to provide only necessary and ordinary expenditures for the year for which the appropriations are made; however, in cases of necessity, an appropriation not expended during the first fiscal year may be expended during the second fiscal year. Money appropriated for operation may be transferred to capital with an approved budget amendment. It is unlawful to purchase supplies for a succeeding biennium from an appropriation contained in this act. Balances of any appropriation unexpended at the end of the second fiscal year, except amounts encumbered by purchase order, shall revert to the funds from which they were appropriated.

Section 3. The following moneys are appropriated for the biennium ending June 30, 1967:

	For the Fiscal Year ending June 30, 1966	For the Fiscal Year ending June 30, 1967
ABSTRACTORS BOARD OF EXAMINERS		
From the earmarked revenue fund, abstracters' board account for operation and capital	$ 1,000.00	$ 1,000.00
BOARD OF ARCHITECTURAL EXAMINERS		
From the earmarked revenue fund, architectural board account for operation and capital	$ 3,300.00	$ 3,000.00
BOARD OF BARBER EXAMINERS		
From the earmarked revenue fund, barber examiners' account for operation and capital	$ 8,420.00	$ 8,831.00
BOARD OF CHIROPRACTIC EXAMINERS		
From the earmarked revenue fund, chiropractic board account for operation and capital	$ 2,500.00	$ 2,400.00

HeinOnline -- 1965 951 1965

EXAMINING BOARD
OF COSMETOLOGY

From the earmarked revenue fund, cosmetology board account for operation and capital	$25,500.00	$25,400.00

BOARD OF DENTAL EXAMINERS

From the earmarked revenue fund, dental examiners' account for operation and capital	$ 5,000.00	$ 5,000.00

STATE BOARD OF MORTICIANS

From the earmarked revenue fund, morticians' board account for operation and capital	$ 4,900.00	$ 4,900.00

BOARD OF FOOD DISTRIBUTORS

From the earmarked revenue fund, food distributors' board account for operation and capital	$29,385.00	$29,385.00

BOARD OF MEDICAL EXAMINERS

From the earmarked revenue fund, medical examiners' account for operation and capital	$12,540.00	$12,540.00

BOARD OF NURSING

From the earmarked revenue fund, board of nursing account for operation and capital	$36,154.00	$36,339.00

BOARD OF EXAMINERS
IN OPTOMETRY

From the earmarked revenue fund, optometry examiners' board account for operation and capital	$ 2,700.00	$ 2,700.00

BOARD OF OSTEOPATHIC
EXAMINERS

From the earmarked revenue fund, osteopathic examiners' account for operation and capital	$ 250.00	$ 250.00

HeinOnline -- 1965 952 1965

BOARD OF PHARMACY

From the earmarked revenue fund, pharmacy board account for operation and capital $17,568.00 $16,893.00

BOARD OF PLUMBING EXAMINERS

From the earmarked revenue fund, plumbing board account for operation and capital $13,966.00 $12,756.00

BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

From the earmarked revenue fund, professional engineers' account, for operation and capital $10,110.00 $10,415.00

BOARD OF VETERINARY MEDICAL EXAMINERS

From the earmarked revenue fund, veterinary examiners' account for operation and capital ..... $ 1,600.00 $ 1,600.00

WATER WELL CONTRACTORS EXAMINING BOARD

From the earmarked revenue fund, water well contractors' account for operation and capital ..... $ 3,188.00 $3,068.00

Section 4. Revenues received in excess of the estimates in all appropriations in this act may be made available by approved budget amendment.

Section 5. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved March 9, 1965.

HOUSE BILL NO. 532

An Act Appropriating Moneys to the State Department of Public Welfare for Old Age Assistance and Medical Assistance to the Aged.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is appropriated from the general fund to the state department of public welfare for the state's share of old age assistance and medical assistance for the aged in conformity with the federal social security act of 1935, as amended, the sum of three hundred twenty thousand dollars ($320,000) for the fiscal year beginning July 1, 1965, and three hundred twenty thousand dollars ($320,000) for the fiscal year beginning July 1, 1966. The department may accept the federal government's share of old age assistance and that share is appropriated to the department.

Approved March 10, 1965.

HOUSE BILL NO. 533

An Act Appropriating Moneys for Certain Agencies and Institutions of State Government.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following amounts are appropriated for the biennium ending June 30, 1965:

SUPREME COURT

From the general fund for operation, seventeen thousand one hundred twenty-nine dollars ..... $ 17,129.00

STATE TUBERCULOSIS SANITARIUM

From the general fund for operation, two hundred twenty-five thousand dollars $225,000.00

The State Tuberculosis Sanitarium shall provide at its institution free treatment and care to Montana residents afflicted with quadriplegia, provided that said persons were residents of Montana at the time they became afflicted with quadriplegia.

MONTANA VETERANS' HOME

From the general fund for operation, six thousand seven hundred fifteen dollars ..... $ 6,715.00

STATE TRAINING SCHOOL AND HOSPITAL

From the general fund for operation, sixty-nine thousand five hundred dollars ..... $ 69,500.00

HeinOnline -- 1965 954 1965

FISH AND GAME COMMISSION

From the earmarked revenue fund, fish and game account for operation, thirty-three thousand dollars ..... $ 33,000.00

FOR ACTUAL AND NECESSARY EXPENSES OF LEGISLATORS ORDERED TO APPEAR BEFORE THE FEDERAL COURT IN BUTTE, MONTANA, ON REAPPORTIONMENT

From the general fund, one thousand dollars ..... $ 1,000.00

DISTRICT JUDGES

From the general fund for operation, seventy-five thousand dollars ..... $ 75,000.00

STATE BOARD OF HAIL INSURANCE

From the earmarked revenue fund for operation, four thousand seven hundred twenty-five dollars ..... $ 4,725.00

THIRTY-NINTH LEGISLATIVE ASSEMBLY

From the general fund for incidental expenses, ninety thousand dollars ..... $ 90,000.00

Section 2. This act is effective on passage and approval.

Approved March 19, 1965.

HOUSE BILL NO. 535

An Act Appropriating Moneys to the Department of Public Institutions and the Board of Education for Capital Projects.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Three million six hundred thirty-nine thousand eight hundred seventeen dollars ($3,639,817) is appropriated to the department of institutions and board of education from the long range building program account in the bond proceeds and insurance clearance fund for the biennium ending June 30, 1967, for the following capital projects. The cost of each project shall not exceed the amount indicated for the project.

TO THE BOARD OF EDUCATION
FOR THE SCHOOL FOR THE DEAF AND BLIND

1. Classroom building addition, expansion of existing facilities ..... $ 158,067

HeinOnline -- 1965 955 1965

2.	Sprinkler system for main building, recommended by state fire marshal	$ 25,000
3.	Fire hydrant and line, recommended by state fire marshal	$ 3,000
4.	Maintenance items excluded from operating budget	$ 8,500

TO THE DEPARTMENT OF INSTITUTIONS
TUBERCULOSIS SANITARIUM

1.	Repair roofs	$ 11,000
2.	Repair steam lines	$ 21,000

SOLDIERS' HOME

1.	Repair, renovate, equip hall for members and renovate kitchen-dining room and equipment	$ 40,000

STATE PRISON

1.	Expand water system and equip	$ 45,000
2.	Repair and replace lock-system in two hundred cell blocks	$ 30,550
3.	New butcher shop	$ 30,000
4.	New women's facility for female prisoners	$ 25,000
5.	New X-ray machine	$ 10,000

INDUSTRIAL SCHOOL

1.	Repair water lines and add steam tunnels	$ 60,000
2.	Demolition of old gym	$ 2,000
3.	Renovate and equip kitchen	$ 80,000
4.	Renovate and equip infirmary	$ 8,000
5.	Renovate and equip laundry	$ 25,000
6.	Repair electric and plumbing shop	$ 5,000
7.	Renovate butcher shop	$ 4,000
8.	New school and vocational rehabilitation building or cottages	$ 375,000

CHILDREN'S CENTER

1.	New boiler	$ 55,000
2.	Repair, renovate, reroof cottages and gymnasium and provide new water supply system	$ 130,000
3.	Repair water tank	$ 7,000

HeinOnline -- 1965 956 1965

STATE HOSPITAL

1.	Renovation of heating system	$ 198,000
2.	Pipe line repairs and maintenance	$ 14,000
3.	Fire escapes	$ 9,600
4.	Multipurpose building for patients	$ 350,000

TRAINING SCHOOL AND HOSPITAL

1.	Reroof junior hall	$ 35,000
2.	Renovate and refrigerate butcher shop	$ 8,500
3.	Insulate existing steam line	$ 1,000
4.	Floors and insulation in attics	$ 3,500
5.	Guards and grilles for windows and radiators	$ 2,500
6.	Screen doors and windows	$ 2,500
7.	One thousand foot underground high voltage system	$ 4,000
8.	Transformer and electrical lines	$ 3,500
9.	Hospital ventilating equipment	$ 2,000
10.	Hospital fire door	$ 400
11.	Nine fire escapes Cottage 1 — 1 Cottage 2 — 2 Cottage 4 — 2 Cottage 5 — 2 Boys' Hall — 2	$ 13,500
12.	Lay nonconductive tile on floor of hospital operating room	$ 1,000
13.	Complete the renovation and kitchen equipment for Griffin Hall	$ 20,000

HOME FOR THE SENILE AGED

1.	Repair heating system	$ 2,600
2.	Fire alarm hook-up	$ 1,550

VOCATIONAL SCHOOL FOR GIRLS

1.	Renovation and consolidation of kitchens and equipment	$ 90,000
2.	Water well and pump	$ 3,000
3.	Repair, renovate, rewire, reroof three cottages, gymnasium and school building and equip	$ 60,000

HeinOnline -- 1965 957 1965

4. Drain swamp from campus ..... $ 8,000
5. Master key system ..... $ 4,550
6. Laundry ..... $ 9,000

DEPARTMENT OF INSTITUTIONS

1. Youth forest camp for boys ..... $ 324,000
2. Diagnostic and treatment center $2,180,000

Section 2. With the consent of the department of institutions, moneys allocated for a project may be used for any other project at the same institution. With the consent of the governor, on the request of the department of institutions, moneys allocated for a facility may be used for any other facility at any other institution.

Section 3. There is also appropriated to the department of institutions all moneys from federal, or private or other sources which may be available to finance the capital projects included in this act.

Section 4. There is hereby created an interim committee on state buildings consisting of four members of the senate appointed by the senate committee on committees and four members of the house of representatives appointed by the speaker. No more than two members of each house shall be appointed from the same political party. Such committee shall review all building projects provided for by this 39th legislative assembly.

The eight member committee shall appoint a qualified building engineer to serve at the pleasure of the committee at a salary set by the committee. The committee shall furnish transportation and per diem for said employee. The building engineer shall keep accurate records of all buildings under construction, review proposed construction and repair plans and make monthly reports to each member of the committee. The said committee shall meet quarterly and at such other times as construction progress requires. The Legislative Council staff shall cooperate in carrying out the provisions of this act.

Section 5. Forty-seven thousand five hundred dollars ($47,500) is appropriated from the long range building program account in the bond proceeds and insurance clearance fund to the committee on state buildings for operation for the biennium ending June 30, 1967.

Approved, except for Section 5, March 19, 1965.

HeinOnline -- 1965 958 1965

HOUSE BILL NO. 537

An Act to Appropriate Money to Certain State Agencies For the Purchase of Land the Repair, Remodeling, Renovation, Construction and Furnishing of Buildings and Other Improvements to Land.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following monies are appropriated for the biennium ending June 30, 1967 for the purchase of land, the repair, remodeling, renovation, construction and furnishing of buildings and other improvements to land:

DEPARTMENT OF AGRICULTURE

From the earmarked revenue fund, grain services account:

(1) Remodel grain inspection laboratory ..... $ 5,000.

(2) Grain inspection laboratory addition ..... $ 13,000.

STATE BOARD OF EXAMINERS

From the long range building program account, bond proceeds and insurance clearance fund:

(1) Reconstruction, improvement, remodeling, repair, and furnishing of the state capitol building, Phase II $1,000,000.00

Provided that the $400,000.00 of bonds authorized in House Bill 427 of the 38th Legislative Assembly shall have been expended prior to the authorization granted therein and the Senate shall appoint a bipartisan committee of two to meet with any state agency responsible on any remodeling of the Senate or Senate Committee rooms or associated offices.

AERONAUTICS COMMISSION

From the earmarked revenue fund, aeronautics commission account:

(1) Administration building addition ..... $ 20,000.

(2) Garage building ..... $ 23,000.

HIGHWAY COMMISSION

From the earmarked revenue fund, highway account:

(1) Highway equipment storage building—
Alberton ..... $ 14,000.

HeinOnline -- 1965 959 1965

(2) Highway equipment storage building—Plentywood	$	7,000.
(3) Highway equipment storage building—Hardin	$	12,000.
(4) Steel sand storage building—Hardin	$	4,500.
(5) Steel sand storage building—Winnett	$	4,500.
(6) Steel sand storage building—Roy	$	4,500.
(7) Office building—Harlowton	$	4,000.
(8) Shop and office building—Butte	$	200,000.
(9) Highway equipment storage building—Butte	$	50,000.
(10) Combination building—Butte	$	30,000.
(11) Steel clean and paint building—Butte	$	18,000.
(12) Steel gas house—Butte	$	7,000.
(13) Highway patrol building—Butte	$	20,000.
(14) Highway equipment storage building—Drummond	$	16,000.
(15) Highway equipment storage building—Clinton	$	14,000.
(16) Steel sand storage building—Big Sandy	$	4,500.
(17) Highway equipment storage building—Glendive	$	15,000.
(18) Highway equipment storage building—Red Lodge	$	12,000.
(19) Steel tool shed—Harlem	$	1,200.
(20) Equipment storage building—Baker	$	7,000.
(21) Equipment storage building—Laurel	$	8,500.
(22) Steel sand storage building—Hardin	$	4,500.
(23) Steel sand storage building—Laurel	$	4,500.
(24) Steel sand storage building—Lewistown	$	4,500.
(25) Equipment storage building—Anaconda	$	12,000.
(26) Equipment storage building—Whitehall	$	8,500.
(27) Office building—Roundup	$	4,000.
(28) Equipment storage building—Havre	$	12,000.

FISH AND GAME COMMISSION

From the earmarked revenue fund, Fish and Game account, for capital, development, land acquisition, and fishing access land acquisition:

		1965-1966	1966-1967
(1) Office Remodeling	$	4,000.	$ 4,000.
(2) Office Remodeling	$	9,800.	

HeinOnline -- 1965 960 1965

(3) Stream Improvements (work such as artificial spawning channels, stream bank erosion protection, fish protection covers	$ 20,000.	$ 20,000.
(4) Anaconda Hatchery (replacement items)		
20-year old Water Pipe line	$ 12,000.	
District Stream rehabilitation	$ 2,500.	$ 2,500.
Hatchery Land Improvements	$ 1,800.	$ 1,800.
District Fencing, Lining Irrigation ditches, etc	$ 6,255.	$ 6,655.
Pipeline at Arlee	$ 4,500.	
Hatching and Rearing Incubation Boxes and Revised Water Supply Boxes at Bluewater		$ 4,700.
Fishing Access Land Acquisition (funds are required for purchase and development of new fishing access land areas or enlargement of existing access sites. These funds will be spent only if suitable fishing access sites are available for purchase consideration.) (Not more than $50,000 to be spent per budget year.)	$ 50,000.	$ 50,000.
Dikes, Anaconda Project	$ 20,000.	
Water Control Structures, Anaconda Project	$ 20,000.	
Fence Replacement (3 miles) Game Range	$ 3,900.	
Fence at Lake Helena	$ 8,000.	
Fence, Anaconda Project		$ 8,000.
Goose Islands, Anaconda Project (Waterfowl Improvement Project)		$ 5,000.
Access Roads, Anaconda Project		$ 3,000.
Fence (2 miles) Game Range		$ 2,600.
Game Management Land Acquisition (funds are required for the purchase of new game management land or enlargement of existing land areas. These funds will be spent only if suitable lands are available for purchase consideration.) (Not more than $150,000 to be spent per budget year)	$150,000.	$150,000.

HeinOnline -- 1965 961 1965

Residence at Judith Game Range ..$ 18,000.
Residence at Freezout ..... $ 19,000.

Section 2. The agency to which monies have been appropriated for specific projects may, upon completion of any project, transfer any monies remaining to complete other authorized projects of the transferring agency, subject to the approval of the department of administration. The balance of any appropriation unexpended at the end of the biennium which is not encumbered by purchase order or obligated by other written contract shall revert to the fund from which it was appropriated.

Section 3. The state fish and game commission is hereby authorized to construct the following projects with any moneys appropriated for operation and capital for state parks.

(1) Refurbishing of State Park Barracks Building at Fort Owen State Monument .....$ 5,000.

(2) Refurbishing of State Owned Buildings at Bannack State Monument .....$ 5,000.

(3) Renovation of Residence and Museum at Chief Plenty Coups Memorial .....$ 5,000.

(4) Shop Building at Lewis and Clark Caverns State Park .....$ 20,000.

(5) Headquarters Building at Makoshika State Park $ 12,500.

(6) Modern Flush-Type Restroom at Lewis and Clark Caverns State Park .....$ 12,500.

(7) Modern Flush-Type Restroom at Yellow Bay State Park .....$ 12,000.

(8) Modern Flush-Type Restroom at Bitterroot Lake State Park .....$ 15,000.

(9) Headquarters Building at Canyon Ferry Reservoir $ 12,500.

(10) Headquarters Building at West Shore State Park ..$ 12,500.

(11) Modern Flush-Type Restroom at Whitefish Lake State Park .....$ 12,500.

(12) Modern Flush-Type Restroom at Canyon Ferry Reservoir State Park .....$ 12,500.

(13) Modern Flush-Type Restroom at West Shore State Park .....$ 12,500.

(14) New Headquarters Building at Tiber Reservoir State Park .....$ 12,500.

HeinOnline -- 1965 962 1965

(15) Headquarters Building at Flathead Lake State Park ..... $ 12,500.

(16) Ten Vault Type Latrines at Lost Creek State Park, Hell Creek State Park, Hooper State Park, Lone Pine State Park, James Kipp State Park, Nelson Reservoir, Medicine Rocks State Park, Rock Creek State Park, Painted Rocks Reservoir State Park and Deadman's Basin State Park ..... $ 20,000.

Approved March 19, 1965.

HOUSE BILL NO. 536

An Act Appropriating Moneys to the Montana University System for Capital Projects, Repairs, Renovation and Remodeling for the Biennium Ending June 30, 1967.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Four million dollars ($4,000,000) is appropriated to the regents of the Montana University system from the long range building program account in the bond proceeds and insurance clearance fund for the biennium ending June 30, 1967, for the following capital projects, repairs, renovation and remodeling. The total cost of each project including any federal funds shall not exceed the amount indicated for the project.

Repair, Renovation and Remodeling

1.	Journalism Building, University of Montana	$ 12,500
2.	Main Hall, University of Montana	$ 27,500
3.	Natural Science Building, University of Montana	$ 16,500
4.	Health Sciences Building, University of Montana	$ 11,000
5.	Old Chemistry Building, Montana State University ..	$ 50,000
6.	Hamilton Hall, Montana State University	$ 25,000
7.	Reid Hall, Montana State University	$ 16,000
8.	Montana Hall, Montana State University	
	a. Ventilate and air condition basement	$ 2,800
	b. Acoustically treat classrooms and install venetian blinds, second floor	$ 3,200
	c. Repair floors, acoustics and blinds on third floor	$ 4,400
	d. Rewire entire building	$ 4,500

HeinOnline -- 1965 963 1965

9.	Lewis Hall, Montana State University, rewire and increase transformer capacity	$ 6,000
10.	Roberts Hall, Montana State University	$ 5,350
11.	Math. Physics Building, Montana State University	$ 6,600
12.	Metallurgy Building, Montana College of Mineral Science and Technology	$ 71,391
13.	Boiler conversion, Western Montana College	$ 15,000
14.	Reroof Middle Building, Western Montana College	$ 20,000

New Construction

15.	Additional boiler facilities, University of Montana	$ 250,000
16.	Science Building, Northern Montana College	$ 800,000
17.	Physical Plant Building, University of Montana	$ 200,000
18.	Vocational Technical Building, Northern Montana College	$ 250,000
19.	Library Classroom Building, Eastern Montana College	$1,887,000
20.	Library completion, Montana State University	$ 407,794
21.	New Chemistry Building completion, Montana State University	$ 350,000
22.	Agricultural Field Buildings, Montana State University	$ 460,895
23.	Physics-Petroleum Building completion, Montana College of Mineral Science and Technology	$ 64,472
24.	Library balcony and stacks, Montana College of Mineral Science and Technology	$ 75,508
25.	Library Addition, Western Montana College	$ 540,000

Section 2. (1) The projects authorized in section 1 of this act shall be constructed in the order listed and, except as provided in subsection (2) of this section, a project shall not be constructed until it has been determined that all projects preceding it on the list can be constructed and paid for.

(2) In the event that it is not necessary to use the full amount of appropriated money for a project, the regents may use excess moneys for the next project on the list for which there would otherwise be insufficient money available.

Section 3. The following projects are authorized for the biennium ending June 30, 1967, without priority. However, no appropriated

HeinOnline -- 1965 964 1965

state moneys may be used in the financing of the construction of these projects.

1. Four stall maintenance garage, Montana State University ..... $ 15,000
2. Maintenance Shop, Western Montana College ..... $ 42,000
3. Science Complex, University of Montana $2,560,000
4. Engineering Science Building, Montana State University $1,860,000
5. Physical Education Building, Western Montana College ..... $ 840,000

Section 4. There is also appropriated to the regents of the Montana University System all moneys from federal, private or other sources which may be available to finance the capital projects included in this act.

Approved March 19, 1965.

HOUSE JOINT RESOLUTION NO. 1

A Joint Resolution of the Senate and House of Representatives Requesting the State Controller and Budget Director to Prepare a Comprehensive Inventory of All State Moneys Held Outside the State Treasury for the Use of the Legislative Council in Preparing a Report on the Management of Such Funds for the Fortieth Legislative Assembly.

WHEREAS, Section 79-306, R. C. M. 1947, designates the State Treasurer as custodian of funds of all agencies, and

WHEREAS, some state agencies receive and disburse large sums of money which never pass through the state treasury, and

WHEREAS, it is not possible now to obtain a complete inventory of funds outside the state treasury nor the amounts of money held in such funds, and

WHEREAS, when public funds are collected and disbursed without ever touching the treasury, the work of preparing a comprehensive budget, insuring that public funds are effectively invested; establishing adequate fiscal control is greatly increased, if not made impossible, and

HeinOnline -- 1965 965 1965

WHEREAS, the extensive amounts of money held outside the treasury invalidates the control of the Legislative Assembly over the financing of state government operations.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the State Controller and State Budget Director are requested to prepare for the Legislative Council a comprehensive inventory of all funds of state agencies outside the state treasury, and

BE IT FURTHER RESOLVED, that the inventory shall show the sources of income, purposes of expenditure, manner of custody, and interest earnings of all moneys in the custody of a state agency which are not deposited in the state treasury, and

BE IT FURTHER RESOLVED, that the State Controller and State Budget Director submit the inventory to the Legislative Council on or before April 1, 1966, along with any comments or suggestions relating to the management of these funds, and

BE IT FURTHER RESOLVED, that the Legislative Council, after reviewing the inventory and other relevant material, is requested to submit a written report of its findings together with recommendations for improving management of these funds to the Fortieth Legislative Assembly, and

BE IT FURTHER RESOLVED, that the Clerk of the House of Representatives send copies of this resolution to the State Controller, the State Budget Director, and the Executive Director of the Legislative Council.

Approved March 9, 1965.

HOUSE JOINT RESOLUTION NO. 2

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Legislative Council Review and Recommend a Revision of Laws Relating to the State Board of Health.

WHEREAS, many of the basic laws outlining the duties and responsibilities of the State Board of Health were written at the turn of the century when the primary function of the Board was communicable disease control, and

HeinOnline -- 1965 966 1965

WHEREAS, since these laws were enacted both the scope and nature of duties assigned to the Board have changed drastically, and

WHEREAS, although numerous amendments have attempted to recognize changing conditions, there are now many conflicts, inconsistencies, and some confusion in the laws, and

WHEREAS, examples of such inconsistencies include the requirement that the Board furnish free blood plasma although this has never been done, statutes mentioning public health nurses imply that maternal and child care are the only duties of nurses although they perform many other functions, statutes authorizing the Board to accept federal funds specify some programs for which funds can be accepted but do not mention other programs where federal aid is received, and

WHEREAS, a review and recodification of laws relating to the State Board of Health could delete obsolete statutes, more clearly define the duties and responsibilities of the Board, expedite interpretation of the statutes, and enhance the possibility of clear understanding of the statutes by the Board, legislators, and citizens alike.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council is requested to review and recommend a revision of all laws relating to the State Board of Health to determine where obsolete and unnecessary statutes could be eliminated, where conflicts can be resolved, and where such laws can otherwise be clarified and improved, and

BE IT FURTHER RESOLVED, that the Legislative Council consult with the State Board of Health and other interested persons for advice and information where necessary in this study, and

BE IT FURTHER RESOLVED, that the Legislative Council submit a written report of its findings to the Fortieth Legislative Assembly together with recommendations for improving laws relating to the State Board of Health, and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this joint resolution to the State Board of Health and to the Executive Director of the Legislative Council.

Approved March 9, 1965.

HeinOnline -- 1965 967 1965

HOUSE JOINT RESOLUTION NO. 3

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Congress of the United States, the Montana Congressional Delegation, the Committee on Interstate and Foregin Commerce of the United States Senate, and the Committee on Interstate and Foreign Commerce of the United States House of Representatives Requesting the Passage of Legislation to Amend 34 Statutes at Large 1416, Codified as 45 United States Code, Section 62, Relating to the Hours Which Employees of Railroads May Be Required to Work.

WHEREAS, federal law now allows a railroad to require its employees to work as long as sixteen consecutive hours without rest; and

WHEREAS, the present federal law was enacted in March of 1907, for the purpose of safeguarding the health and safety of employees and travelers upon railroads and that law has never been amended; and

WHEREAS, the high speed operation of modern railroads imposes an undue strain upon employees required to work the long hours now allowed, thus endangering the health and safety of employees and travelers upon railroads.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Assembly of the State of Montana request the Congress of the United States to amend 34 Statutes at Large 1416, codified as 45 United States Code, Section 62 to provide that it shall be unlawful to require employees subject to sections 61 to 64 inclusive of this title to remain on duty for a longer period than twelve consecutive hours, and provide that any employee who has been on duty twelve consecutive hours shall not be required or permitted to continue or again go on duty without having had at least ten consecutive hours off duty; and no such employee who has been on duty twelve hours in the aggregate in any twenty-four hour period shall be required or permitted to continue or again go on duty without having had at least eight consecutive hours off duty; and providing however, that no operator, train dispatcher or other employee who by the use of the telegraph or telephone dispatches, reports, transmits, receives or delivers orders pertaining to or affecting train movements shall be required or permitted to remain on duty for a longer period than twelve hours in all towers, offices,

HeinOnline -- 1965 968 1965

places and stations operated only during the daytime, except in case of emergency.

BE IT FURTHER RESOLVED, that the Secretary of State be instructed to send copies of this resolution to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States, to the members of the Montana delegation of Congress, to the chairman of the Committee on Interstate and Foreign Commerce of the United States Senate, and to the chairman of the Committee on Interstate and Foreign Commerce of the United States House of Representatives.

Approved February 8, 1965.

HOUSE JOINT RESOLUTION NO. 6

A Joint Resolution of the Senate and House of Representatives of the State of Montana Asking That the President and Congress Be Vigilant in Maintaining Quotas on Imported Meat or Meat Products and Requesting Rigid Inspection Requirements for Imported Meat or Meat Products.

WHEREAS, the importation of foreign meat and meat products has irreparably damaged the livestock industry throughout Montana and the nation, and

WHEREAS, legislation has been passed by Congress setting up some measure of control on certain meat and meat products including beef and veal, and

WHEREAS, the importation of beef over and above the allowable limits would seriously jeopardize our already strained economic situation, and

WHEREAS, imported meat and meat products are often raised, packaged or processed under unsanitary conditions and should be rigidly inspected before made available for consumption.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the members of the Thirty-ninth Legislative Assembly of the State of Montana ask that the national administration and the Congress of the United States be vigilant and informed on quantities of imported meat so that if limits threaten to be exceeded, quotas may be immediately imposed as prescribed by Public Law 88-482, and

HeinOnline -- 1965 969 1965

BE IT FURTHER RESOLVED, that should the limits presently prescribed prove to be inadequate to accomplish the purpose of Public Law 88-482, then further legislation should be proposed immediately which would lower the quotas to the point where adequate protection for domestic industry and domestic labor be achieved, and

BE IT FURTHER RESOLVED, that the United States Department of Agriculture or other appropriate governmental agency impose rigid inspection requirements on foreign meat and meat products so as to protect the health and welfare of the consuming American public, and

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the President of the United States, to each member of the Montana Congressional Delegation, and to the Secretary of Agriculture.

Approved March 1, 1965.

HOUSE JOINT RESOLUTION NO. 9

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the Senate and to the Speaker of the House of Representatives of the United States; to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators From the State of Montana; to the Honorable James Battin and the Honorable Arnold H. Olsen, Representatives From the State of Montana; and to the Honorable Orville L. Freeman, Secretary of Agriculture, Urging Passage of Legislation Extending the Sugar Act, to Protect the Future Economic Stability of Our Domestic Beet Sugar Industry and to Allow an Immediate Increase in Domestic Quotas.

WHEREAS, the provisions of Section 202 (c) of the Sugar Act relating to foreign quotas are not effective after December 31, 1964; and

WHEREAS, the United States Domestic Beet Sugar Growers and Processors amply demonstrated their ability to produce sugar when it was needed for consumers in 1963 and 1964; and

WHEREAS, the United States Domestic Beet Sugar Industry is now confronted with excessive inventories of sugar in relation to permitted marketings under the existing Sugar Act; and

HeinOnline -- 1965 970 1965

WHEREAS, to avoid further increases in inventories which are now excessive it has been necessary to restrict the acreage of sugar beets to be grown in 1965 to 1,375,000 acres, six percent below 1964 acreage; and

WHEREAS, the potential production of beet sugar in the United States is substantially greater than the quantity produced in 1963 or 1964; and

WHEREAS, the economic stability of the whole domestic Beet Sugar Industry is in jeopardy due to the lack of a sufficient marketing quota and extremely low prices paid for refined sugar;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Congress should as early as possible revise the quota provisions of the Sugar Act so as to:

(1) Permit the domestic sugar industry to market an additional 400,000 tons immediately, the amount of excess inventories resulting from increased production in 1963 and 1964,

(2) Permit a growth in the domestic Sugar Industry by increasing the present marketing quota to a minimum of the 1965 restricted acreage production

(3) Make provisions in the Sugar Act assuring domestic beet sugar growers a fairer return on their labor and investment, and

(4) Extend the Act to be effective until December 31, 1970.

BE IT FURTHER RESOLVED, That the Secretary of State is instructed to send copies of this resolution to the President of the Senate and Speaker of the House of the United States Congress; to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from Montana; to the Honorable James Battin and the Honorable Arnold Olsen, Representatives from Montana; and to the Honorable Orville L. Freeman, Secretary of Agriculture.

Approved March 1, 1965.

HOUSE JOINT RESOLUTION NO. 11

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the United States,

HeinOnline -- 1965 971 1965

the Honorable Lyndon B. Johnson, the Congress of the United States, the Administrator of the Veterans Administration, the Honorable William Driver and the Montana Congressional Delegation Protesting the Announced Closure of the Veterans Administration Hospital Located at Miles City, Montana.

WHEREAS, the State of Montana is the fourth largest state in the nation and has at the present time only 260 hospital beds for the eighty-eight thousand veterans who reside in the state; and

WHEREAS, the closing of Miles City Veterans Administration facility will reduce the number of hospital beds available for Montana veterans to 160; and

WHEREAS, the facility at Helena, Montana known as Fort Harrison, Montana is already over-crowded with more patients than it can handle without use of a waiting list; and

WHEREAS, the closure of the Miles City Hospital will require disabled and sick veterans to travel additional hundreds of miles for hospital care, thus creating a situation which would be intolerable and dangerous to their health and welfare; and

WHEREAS, there is no evidence that the operation of the Miles City Veterans Administration facility has been at less than capacity in the past several years, and, to the contrary, it is evident that this hospital has been used to full capacity by the thousands of veterans who live within a radius of said facility; and

WHEREAS, the hospital today has only one empty operating bed; and

WHEREAS, the veteran population is becoming older—with the average World War I veteran now 69 years of age, the average World War II veteran 44 years of age and the average Korean veteran 34 years of age; and

WHEREAS, with increased age the incidence of illness and dentistry care also increases; and

WHEREAS, the need for more facilities rather than less is indicated by all Veterans Administration statistics;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative assembly of the State of Montana request the President of the United States to review the decision made by his Administrator of Veterans Affairs in the closing of the Veterans

HeinOnline -- 1965 972 1965

Administration facility at Miles City, Montana and request Congress of the United States to investigate this decision with the idea of canceling said order.

BE IT FURTHER RESOLVED, that the Secretary of State be instructed to send copies of this resolution to the President of the United States, to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States, to the Administrator of Veterans Affairs of the United States, and to the Montana Delegation of Congress.

Approved January 26, 1965.

HOUSE JOINT RESOLUTION NO. 12

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Legislative Council Review, Recodify, Clarify and Suggest Improvements to the Montana Fire Code, Reporting Their Findings and Recommendations to the Fortieth Legislative Assembly.

WHEREAS, many of the laws which make up the Montana Fire Code were enacted more than thirty years ago and are patently obsolete, and

WHEREAS, the present Fire Code has not been changed to reflect the changing needs for fire protection since the laws were enacted, and

WHEREAS, the authority delegated to the State Fire Marshal by the Fire Code is not clear, and

WHEREAS, although the laws delegate authority to the State Fire Marshal to make rules and regulations, the laws do not provide adequate policy guides for the State Fire Marshal in promulgating the rules and regulations, and

WHEREAS, some duties of the State Fire Marshal, such as licensing of places where explosives are stored, should properly be vested in other agencies of state government.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council is requested to review the Montana Fire Code, determine where obsolete and unnecessary statutes can

HeinOnline -- 1965 973 1965

be eliminated, where conflicts can be resolved, and where such laws might otherwise be clarified and improved, and

BE IT FURTHER RESOLVED, that the Legislative Council is requested to consult with the State Fire Marshal in the conduct of the study, and with other persons or organizations as may be deemed desirable, and

BE IT FURTHER RESOLVED, that the Legislative Council submit a written report of its findings, together with recommendations and legislation if necessary, to the Fortieth Legislative Assembly.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the Executive Director of the Legislative Council and to the State Fire Marshal.

Approved March 9, 1965.

HOUSE JOINT RESOLUTION NO. 13

A Joint Resolution of the Senate and House of Representatives of the State of Montana Expressing the Opinion That Thefts of Livestock Might Decline if There Were Consideration of More Stringent Application of Penalties by District Judges and the State Board of Pardons.

WHEREAS, during the past several years ranchers have found it increasingly difficult to realize a net profit on their operations, and

WHEREAS, because of the decline in net profits realized, it has become increasingly difficult for many ranchers to continue operations, and

WHEREAS, any factor which further contributes to the deterioration of the financial condition of ranchers places a heavy burden upon the industry, and

WHEREAS, in recent years the incidence of theft of livestock has increased in Montana, and

WHEREAS, the livestock commission and local law enforcement officials have done a commendable job in enforcing laws, but it is virtually impossible to prevent each theft, and

WHEREAS, thefts of livestock might tend to decline if it were clearly known that District Judges and the State Board of Pardons would consider more stringently enforcing penalties for such crimes.

HeinOnline -- 1965 974 1965

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Assembly wishes to express the opinion that thefts of livestock might decline if it were known that District Judges and the State Board of Pardons would take these facts into consideration in processing persons convicted of such offenses.

BE IT FURTHER RESOLVED, that the Legislative Assembly wishes to convey this expression of opinion to each District Judge and to the State Board of Pardons requesting that consideration be given to the effect that more stringent application of penalties might have in deterring such crimes.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to each District Judge and to the State Board of Pardons.

Approved February 12, 1965.

HOUSE JOINT RESOLUTION NO. 14

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Secretary of Agriculture Study Prices Paid to Meat Producers, Costs of Processing, and Retail Prices to Determine If Meat Processors and Retailers Are Receiving Unwarranted Profits.

WHEREAS, prices paid to Montana ranchers have declined in the past few years and are now the lowest in seventeen years, and

WHEREAS, there has not been a decline of this magnitude in retail prices paid for meat, and

WHEREAS, the portion of the consumer dollar received by the livestock producer has also declined, and

WHEREAS, although processing costs may have increased, it is possible that the profits of meat processing companies have not declined as markedly as have prices paid to ranchers, and

WHEREAS, if retail prices of meat were reduced, consumption might increase and the prices paid to livestock producers thus be strengthened.

HeinOnline -- 1965 975 1965

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the President and Congress are hereby requested to direct that the Secretary of Agriculture conduct a comprehensive study of prices paid to producers, costs of processing meat, and retail prices for the meat paid by actual consumers to determine whether or not processors and retailers are receiving unwarranted profits.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the President, to each member of the Montana Congressional Delegation, and to the Secretary of Agriculture.

Approved February 12, 1965.

HOUSE JOINT RESOLUTION NO. 15

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the United States, the Honorable Lyndon B. Johnson, the Congress of the United States, The Secretary of Defense, the Honorable Robert S. McNamara, and the Montana Congressional Delegation, Questioning and Protesting the Announced Closure of the Glasgow Air Force Base Located at Glasgow, Montana.

WHEREAS, in November of the year 1964 the Secretary of Defense announced that Glasgow Air Force Base would be closed in the near future, and

WHEREAS, the Glasgow Air Force Base is one of the newest permanent military installations for the protection of the people of the United States, built within the past ten (10) years, and is now entering its most economical phase of operation with the most advanced, modern, complete and expensive facilities available and represents a capital investment in excess of One Hundred Million Dollars ($100,000,000.00) thus making it one of the largest capital investments in the State of Montana, and

WHEREAS, the Government has constructed One Thousand Four Hundred Forty-nine (1,449) of the finest housing units in the entire United States Air Force and less than two hundred (200) Base personnel live off-Base, the Government investment in housing and "hardened" concrete barracks and dormitories representing an investment of more than Thirty-five Million Dollars ($35,000,000.00)

HeinOnline -- 1965 976 1965

with the highest percentage of on-base personnel of any base in the nation, and if closure is completed as announced the people of this nation will be required to pay for this federal housing from sources other than the ammortized rent now derived from service personnel presently living in these facilities, and

WHEREAS, in addition to the above, there now exists on the Base a Three Million Dollar ($3,000,000.00) hospital, three (3) elementary schools, expanded post exchange and commissary, a recently expanded "million dollar" Officers Club, an NCO Club, and one of the largest and finest Serviceman's Centers with hobby section and workshops, music room, auditorium and relaxation facilities, base theatre, bowling alley and church, all permanent structures, and

WHEREAS, in the summer of the year 1964, more than One Million Dollars ($1,000,000.00) was paid by the Government to expand and rebuild the runway at the Base and many millions of dollars have been spent to build hangers, headquarters buildings, security buildings and numerous other permanent facilities in order to render the Base a completely operable and self-sustaining Air Force installation at a total cost of more than One Hundred Million Dollars ($100,000,000.00) for all improvements involved, and

WHEREAS, the fact that the Glasgow Air Force Base is strategically located has never been questioned by any person or entity whatsoever, and

WHEREAS, it is within the common knowledge of the flying personnel at Glasgow Air Force Base that it ranks among the highest in the nation in total flyable days per year and won the Strategic Air Command award for three (3) years of perfect flying safety and its location approximately eighteen (18) miles north of Glasgow presenting no hazard to municipal inhabitants such as is the case with many other Air Force Bases located in or near municipalities throughout the nation, and

WHEREAS, the city of Glasgow has overextended itself and fully complied with every Government wish on the repeated Government promises of Base permanence and has expended Ten Million Dollars ($10,000,000.00) for new housing in the city and closure will result in an extreme intemperate, radical and crowning dollars and cents depression on the City of Glasgow, and, indeed, the whole state of Montana, going beyond moderation and all reason, and if the announced closure takes place it is expected that the Federal Housing Administration will be required to recover over Two Hundred (200) dwellings recently constructed in Glasgow and the residential market value in that City will devalue as much as forty (40)

HeinOnline -- 1965 977 1965

to fifty (50) percent, and business investment will drop as much as fifty (50) percent, and

WHEREAS, the decision to close the Base was predicated upon information now proven to be obsolete and therefore false, and Glasgow's only protection was the repeated promises of Base permanence, and closure will bring about the greatest catastrophe in the history of Glasgow and will adversely affect the entire State of Montana;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Assembly of the State of Montana request the President of the United States to review the decision made by the Secretary of Defense to close the Glasgow Air Force Base and request the Congress of the United States to investigate that decision for the purpose of corroborating the facts presented herein and reversing the closure mandate heretofore rendered or provide other facilities or installation and personnel for location at the Base situs in order that the capital and resources heretofore expended for this facility by the people of the United States and by the inhabitants of the City of Glasgow shall not be wasted or rendered unproductive and barren.

BE IT FURTHER RESOLVED, that the Secretary of State be instructed to send copies of this resolution to the President of the United States, to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States, to the Secretary of Defense, and to the Montana Delegation of Congress.

HOUSE JOINT RESOLUTION NO. 16

A Joint Resolution of the Senate and House of Representatives of the State of Montana Authorizing and Requesting the Governor to Proclaim 1965 a Year to See Montana, the United States and Its Possessions, to Encourage and Promote Vacation Travel Therein, and Authorizing the Governor to Appoint a State Chairman to Coordinate the Efforts of State Agencies and Other Organizations in This Endeavor.

WHEREAS, the Congress of the United States, the President, and the United States Department of Commerce have asked that the

HeinOnline -- 1965 978 1965

National Association of Travel Organizations continue its "SEE THE USA" campaign, and

WHEREAS, it is to the best interest of the State of Montana and the United States and its possessions that this campaign be publicized, promoted and coordinated through state agencies, private organizations and industry.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Governor of the State of Montana is authorized and requested to issue a proclamation designating the year 1965 as a period to see the State of Montana, the United States and its territories, to invite private industry and interested private organizations to begin in 1965 a statewide effort which will encourage Montana people and American people to explore, use and enjoy the scenic historical recreation areas and facilities throughout the State of Montana, the United States of America, its territories and possessions and the Commonwealth of Puerto Rico, and

BE IT FURTHER RESOLVED, that the Governor is authorized and requested to publicize the proclamation issued pursuant to the first section and otherwise to encourage and promote vacation travel within the State of Montana, the United States of America, its territories and possessions and the Commonwealth of Puerto Rico, by Montana citizens, American citizens and by citizens of other countries, through such departments or agencies of the State Government as he deems appropriate in cooperation with county and local agencies and private organizations, and

BE IT FURTHER RESOLVED, that the Governor is authorized and requested to appoint a State Chairman, who will serve without compensation from the State Government, to coordinate the efforts of state agencies, private organizations and private industry in carrying out the purposes of this resolution, and

BE IT FURTHER RESOLVED, that a copy of this Joint Resolution be sent by the Secretary of State to the Governor of the State of Montana.

Approved March 1, 1965.

HOUSE JOINT RESOLUTION NO. 17

A Joint Resolution of the Senate and House of Representatives of the State of Montana Asking That the Scenic Beauty of Montana

HeinOnline -- 1965 979 1965

Be Given Full Consideration by State and Federal Agencies of Government When Other Natural Resources Are Being Developed.

WHEREAS, areas adjacent to Yellowstone Park depend heavily upon the tourist trade for income, and

WHEREAS, the tourist industry is vitally important not only to areas adjacent to the Park, but also to the entire State of Montana, and

WHEREAS, the scenic beauty of Montana is an important contributing factor to its income from the tourist industry, and

WHEREAS, the scenic beauty can be rapidly destroyed by lumbering and development of other natural resources, and

WHEREAS, lumbering activities near West Yellowstone are now rapidly destroying some of the scenic beauty of the area, and

WHEREAS, it might be possible to preserve much of the scenic beauty of the area without unduly hampering the interests of persons developing natural resources.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Assembly urges the State and Federal Governments to consider the scenic beauty of areas in Montana, and give full consideration to the contribution of this scenic beauty to the important tourist industry of Montana, in authorizing development of other natural resources.

BE IT FURTHER RESOLVED, that the Legislative Assembly believes that the scenic beauty of the State can be preserved without unduly hampering development of other natural resources.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this resolution to the Governor, to the President, to each member of the Montana Congressional Delegation, and to the Secretary of the Interior.

HOUSE JOINT RESOLUTION NO. 18

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the Legislative Council to Conduct a Comprehensive Study of the Operation, Effectiveness and Powers of the Legislative Branch of Government.

HeinOnline -- 1965 980 1965

WHEREAS, the Constitution of the State of Montana provides for the division of State Government into three distinct departments: the Legislative, Executive and Judicial, and

WHEREAS, the Montana Supreme Court has held that the purpose of this division is "to constitute each department an exclusive trustee of the power vested in it, accountable to the people alone for its faithful exercise," and

WHEREAS, the Montana State Government has experienced a tremendous expansion and has been called upon to face a widening spectrum of programs, which have resulted in corresponding increases in the responsibilities of the Legislative Assembly, and

WHEREAS, the capacity of State Government to meet the demands placed upon it in the complex setting of the Mid-twentieth Century—and thus make possible the preservation of the Federal System—requires the highest degree of effectiveness in the operation of the Legislative Branch of State Government.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council is requested to conduct a comprehensive study of the operation, effectiveness and powers of the Legislative Branch of Government.

BE IT FURTHER RESOLVED, that this study shall include, but not be limited to, the following subjects:

1) Organization and procedures.
2) Terms and compensation of members.
3) Office space and other facilities.
4) Frequency of sessions.
5) Interim Legislative fiscal analysis and budget review.
6) Legislative post audit.
7) Continuous code revision and other legal services, including bill drafting.
8) Research and reference services.
9) The need for fiscal notes attached to bills with financial implications.

BE IT FURTHER RESOLVED, that the Legislative Council shall, if possible, arrange for regional hearings to receive observations and

HeinOnline -- 1965 981 1965

suggestions from members of the Legislative Assembly and interested citizens throughout the State, and

BE IT FURTHER RESOLVED, that the Legislative Council shall report its findings, conclusions and recommendations, together with any necessary legislation, to the Fortieth Legislative Assembly, and

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this Resolution to the Executive Director of the Legislative Council.

Approved March 9, 1965.

HOUSE JOINT RESOLUTION NO. 21

A Joint Resolution of the Senate and House of Representatives Requesting the Governor to Reappoint the Committee to Study the Montana Business Corporation Laws; to Expand That Committee and the Scope of Its Study to Include Corporations Not for Profit; and to Develop Ways and Means Whereby a Model Business Corporation Code and a Model Nonprofit Corporation Code Can Be Drafted.

WHEREAS, the House of Representatives of the Thirty-eighth Legislative Assembly of the State of Montana unanimously passed House Resolution Number 2 requesting that the Governor appoint a Committee to study the Montana Business Corporation Laws and to develop ways and means whereby a Model Business Corporation Code could be drafted, and that such Committee report its recommendations to the Governor prior to the Thirty-ninth Legislative Assembly, and

WHEREAS, the Governor did appoint a Committee to study the Business Corporation Laws of Montana and to develop a Model Business Corporation Code for the State of Montana, and

WHEREAS, said Committee did meet numerous times in the interim period between the Thirty-eighth Legislative Assembly and the Thirty-ninth Legislative Assembly and made substantial progress in the study of the Corporation Laws of the State of Montana and in the drafting of a Model Business Corporation Code for the State of Montana, and

WHEREAS, said Committee has found that the preparation of a Model Business Corporation Code for Montana is inseparably woven into the laws governing the organization and operation of corporations not for profit, and

HeinOnline -- 1965 982 1965

WHEREAS, the work of said Committee is most valuable in the formulation and modernization of the Business Corporation Laws of the State of Montana and should be expanded to include a study of the laws relative to corporations not for profit and should be carried on to its completion, and

WHEREAS, the work of said Committee has been carried on without expense to the State of Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Governor is requested to reappoint the Committee of lawyers to study the Business Corporation Laws of Montana and that the Committee be expanded to include lawyers and interested laymen and particularly persons interested in the laws concerning corporations not for profit; and that said Committee be directed to prepare a Model Business Corporation Code and a Model Code for Corporations not for profit for the State of Montana for the correcting of existing deficiencies in the laws of Montana and adopting improvements in such laws; and that said committee be directed to report to the Governor and the Fortieth Legislative Assembly.

Approved March 1, 1965.

HOUSE JOINT RESOLUTION NO. 22

A Joint Resolution of the Senate and the House of Representatives of the State of Montana to the Congress of the United States, Requesting the Study of the Need to Regulate Forecasting of Election Results on Election Day by News Media.

WHEREAS, it is vital in a Democracy that each voter select the candidate of his choice without being unduly influenced in any manner on the day of elections, and

WHEREAS, present means of communications and electronic data processing permit the reporting of a substantial portion of the election results in the eastern portion of the nation before the polls have closed in the western portion of the nation, and

WHEREAS, electronic data processing machines have made it possible to predict the outcome of some elections based upon only a small portion of the election returns, and

WHEREAS, partial election returns which might indicate a trend, or partial returns which might be used to predict the outcome of

HeinOnline -- 1965 983 1965

election contests are available to a large segment of the population before they cast their vote, and

WHEREAS, the knowledge of these trends or predictions might tend to unduly influence the vote of many citizens, and

WHEREAS, predicting election results by mass media cannot be controlled by the individual states.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Montana Legislative Assembly asks that the Congress of the United States study the forecasting of election results before the polls are closed on election day to determine if such forecasts abuse the freedom to disseminate information and the prohibition against campaigning on election day.

BE IT FURTHER RESOLVED, that copies of this Joint Resolution be sent by the Secretary of State of Montana to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States and to each member of the Montana Congressional Delegation.

Approved March 1, 1965.

HOUSE JOINT RESOLUTION NO. 23

A Joint Resolution of the House of Representatives and the Senate of the State of Montana to the Honorable Mike Mansfield, the Honorable Lee Metcalf, United States Senators from the State of Montana; the Honorable Arnold Olsen and the Honorable James Battin, United States Representatives from the State of Montana; to General George Walker of the Corps of Engineers, Omaha Division; Urging Congress to Approve Development of the Upper Missouri River as Outlined by the Corps of Engineers' Modified Plan IV.

WHEREAS, the rural and urban population of Montana, has not increased on a scale commensurate with most of the other states; this is due to the failure to develop our resources in a sufficient degree to attract others or even keep young Montanans from leaving the state. The Missouri River is about the only resource we now have which lends itself to favorable development, and

HeinOnline -- 1965 984 1965

WHEREAS, Montana may eventually lose all rights to water from the Missouri River to downstream users if our State does not act immediately to reserve all available water rights, and

WHEREAS, the stretch of the Missouri River extending from Fort Benton to the Charles M. Russell Game Range is sparsely populated, has few access roads and the land is principally owned by the public, and

WHEREAS, a dam on the Missouri River within the stretch heretofore described would provide flood control, irrigation, recreational interest and power potential as well as economic benefit during the construction of such dam, and

WHEREAS, there is a need for electricity to supply present demands and those of future demands as well as entice industrial growth.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE STATE OF MONTANA:

That the Thirty-ninth Legislative Assembly of the State of Montana urges the Congress of the United States to approve what is known as Modified Plan IV as promulgated by the Corps of Engineers which provides for the construction of two dams known as the Fort Benton Dam and the High Cow Creek Dam.

BE IT FURTHER RESOLVED, that the Congress of the United States approve funds necessary to construct the aforesaid dams and necessary access roads.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this Resolution to the Honorable Mike Mansfield, the Honorable Lee Metcalf, United States Senators; the Honorable Arnold Olsen and the Honorable James Battin, United States Representatives; and to General George Walker of the Corps of Engineers, Omaha Division.

Approved March 9, 1965.

HOUSE JOINT RESOLUTION NO. 25

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the Federal Government to Construct an Air Facility Near Glacier National Park Which Would Be Capable of Accommodating the Most Modern Type of Aircraft.

HeinOnline -- 1965 985 1965

WHEREAS, Montana and particularly Glacier National Park are richly endowed with the natural beauty necessary to attract tourists; and

WHEREAS, tourism is an important factor in contributing to the economy of the state; and

WHEREAS, income from the tourist trade makes it the third most important industry in the state at the present time; and

WHEREAS, there is every expectation that the importance of the tourist trade will increase in the future; and

WHEREAS, at the present time there is no adequate air facility in the vicinity of Glacier National Park; and

WHEREAS, an adequate air facility near Glacier National Park would contribute to Montana's tourist industry and also afford many additional persons the opportunity to visit Glacier National Park; and

WHEREAS, commercial airlines have indicated a keen interest in such a facility and also indicated an interest in promoting tourist traffic if such a facility were available.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Assembly requests the Federal Government to authorize an air facility capable of accommodating the most modern aircraft near East Glacier and appropriate funds for its construction as soon as possible.

BE IT FURTHER RESOLVED, that the Legislative Assembly believes that such a facility would not only increase tourist trade in Glacier National Park but would also increase tourist trade at Yellowstone National Park.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send copies of this Resolution to the President, to each member of the Montana Congressional Delegation, to the Secretary of the Interior, and to the Administrator of the Federal Aviation Agency.

Approved March 1, 1965.

HOUSE JOINT RESOLUTION NO. 26

A Joint Resolution of the Senate and House of Representatives of the State of Montana Opposing Nationalization or Socialization

HeinOnline -- 1965 986 1965

of Privately-Owned and Operated Railroads and Urging Action by Congress and the President of the United States to Prevent State Ownership and Operation of the Railroad Industry.

WHEREAS, Railroad Brotherhoods have a long standing policy opposing nationalization and socialization of the nation's railroad industry; and

WHEERAS, other nations of the world have suffered huge losses to their national treasuries by such state-owned operation; and

WHEREAS, in neighboring Canada the privately owned and operated railroad system has shown profits and extensive tax payments to dominion and local governments while the state-owned and operated railroad in that same nation has shown consistent losses aggregating nearly a half-billion dollars in 30 years although enjoying an income-tax free status; and

WHEREAS, the Argentine railroad system, also state-owned and operated, has suffered huge financial losses and service has deteriorated to a point where economic stagnation has crippled the country; and

WHEREAS, Montana would suffer losses to its economy and its tax base by such railroad socialization, including a loss of $7,500,000 a year in state and local government support, of which nearly $5,000,000 constitutes support to schools at all levels; and

WHEREAS, the Honorable Senator Michael J. Mansfield of Montana, majority leader in the United States Senate, publicly termed the socialization proposal as "unwise and uncalled for"; and

WHEREAS, such socialization and state ownership is contrary to and repugnant to American principles and should be rejected in all fields.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Congress of the United States and President Lyndon B. Johnson be respectfully and strongly urged to take all action possible to prevent such socialization or nationalization of this valuable and strategic industry, using the full force of government power and authority to deny such a possibility.

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the Honorable Lyndon B. Johnson, President of the United States; to the Honorable Michael J. Mansfield and Lee Met-

HeinOnline -- 1965 987 1965

calf, Senators from the State of Montana; to the Honorable Arnold H. Olsen and James F. Battin, Representatives from the State of Montana; to the Honorable Willard Wirtz, Secretary of Labor of the United States; to the Honorable Warren G. Magnuson, Chairman of the Senate Commerce Committee; and to the Honorable Oren Harris, Chairman of the House Interstate and Foreign Commerce Committee of the Congress of the United States.

Approved March 9, 1965.

HOUSE JOINT RESOLUTION NO. 27

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the President of the United States and Congressional Delegation of Montana to Consider Setting Up a Federal Disaster Insurance Program.

WHEREAS, disasters have occurred frequently in areas of Montana, and

WHEREAS, the occurrence of drought, blizzards, floods and fires has caused numerous cases of severe and economic hardship, and

WHEREAS, these are disrupting the normal economy of communities both large and small; and causing many families and businesses to disrupt their lives and move to new areas, often out of state.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Assembly of the state of Montana request the President of the United States and Congress of the United States to initiate procedures to establish a Federal Disaster Insurance Program similar to the existing Federal Crop Insurance Program, and

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to Montana's Congressional Delegation.

Approved March 9, 1965.

HOUSE JOINT RESOLUTION NO. 28

A Joint Resolution of the Senate and the House of Representatives of the State of Montana to the President of the United States of

HeinOnline -- 1965 988 1965

America, Department of Interior, Bureau of Reclamation, United States Corps of Engineers and Congressional Delegation of Montana Requesting Immediate Action on a Program for Flood Protection in Montana.

WHEREAS, Montana has experienced multimillion dollar losses of property in the past from natural disasters, and

WHEREAS, our history indicates these disasters will continue to occur, and

WHEREAS, the Bureau of Reclamation and the Corps of Engineers have surveys, studies and reports on file in Washington, D. C. showing plans by which our agriculture land and municipalities can be protected from recurring floods.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Assembly of the State of Montana request the President of the United States and the Congress of the United States to take immediate action to formulate plans and initiate a program for future protection of our lands and communities based upon recommendations of the Bureau of Reclamation and the Corps of Engineers, and

BE IT FURTHER RESOLVED, that Congress consider new approaches to disaster loans, making allowances for extensiveness of damages and economic conditions existing as a result of past disasters, and

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to the Principles mentioned in the title.

Approved March 1, 1965.

HOUSE JOINT RESOLUTION NO. 34

A Joint Resolution of the House of Representatives and the Senate of the State of Montana Calling for Speedy Enactment by the United States Congress, of an Amendment to the Taft-Hartley Act to Abolish That Provision of Said Act Dealing With Right to Work Laws.

WHEREAS, as in his State of the Union Address the Honorable Lyndon B. Johnson, President of the United States, has called upon

HeinOnline -- 1965 989 1965

Congress to repeal this portion of the Taft-Hartley Act which authorizes the establishment and enactment of right to work laws in the several states of this union, and

WHEREAS, it is favorable to the interest of all Montana that Congress speedily enact legislation in accordance with this special request of the President.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND BY THE SENATE OF THE STATE OF MONTANA:

That the Senate and the House of Representatives of the State of Montana hereby strongly endorse the recommendation of the President of the United States to the Congress that that portion of the Taft-Hartley Act authorizing and enabling the several states to adopt the right to work laws be, by the Congress of the United States of America, repealed.

BE IT FURTHER RESOLVED, that the Secretary of State of the State of Montana is instructed to send copies of this Resolution to the President of the United States, to the chairman of the Interstate Commerce Committee, to the Department of Justice of the United States, and to each member of the Montana Congressional Delegation.

Approved March 2, 1965.

HOUSE JOINT RESOLUTION NO. 37

A Joint Resolution of the Senate and House of Representatives of the Legislative Assembly of the State of Montana Calling to the Attention of the Bureau of Public Roads and of the Montana State Highway Commission to the Duty of Such Agencies to Locate Highways in a Manner Compatible With the Greatest Public Good and the Least Private Injury, and Directing and Requesting That Such Agencies Locate, Operate, and maintain the Highways in the State of Montana in Conformity With That Duty.

WHEREAS, it appears that in the planning, construction and maintenance of public highways in the State of Montana, the United States Bureau of Public Roads and the Highway Commission of the State of Montana have often acted in an arbitrary fashion and without locating such highways in a manner compatible with the greatest public good and the least private injury in violation of the

HeinOnline -- 1965 990 1965

mandate of Section 32-1615, Revised Codes of Montana, 1947, as amended, and

WHEREAS, it is the duty of the Bureau of Public Roads to cooperate with the State of Montana in the locating of such highways and to consider the needs, public and private, of the people of the State of Montana, and

WHEREAS, when either or both of these agencies are aware of, or in the proper exercise of their functions should be aware of, possible damage or detriment to the people in an area in which a highway is contemplated, no such highway should be finally located nor contracts for the construction thereof let, until the people affected have had opportunity to be heard and considered in that connection, and

WHEREAS, in locating any such highway, these agencies should consider and determine a location which will minimize damage to the people of the area involved, and in planning construction of such highways, such agencies should determine and utilize such means of construction as will, to the greatest extent practicable, minimize such damages.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Senate and House of Representatives of the State of Montana wish to call to the attention of the Bureau of Public Roads and the Highway Commission of the State of Montana the duty of such agencies to consider the needs of the people of the State of Montana when locating, planning, constructing, operating or maintaining any highway in the State of Montana, having in mind both the needs of the people for adequate and proper means of transportation and the needs of the people that such highways be located, planned, constructed, operated and maintained with the least possible damage to private persons.

BE IT FURTHER RESOLVED, that such agencies be informed by the Senate and House of Represenatives of the State of Montana that it is the opinion of the Senate and House of Representatives that before any such highway is planned, located or constructed, such agencies have a duty, and the people have a right, to provide and receive a public hearing, and that such agencies have the duty to take into account the legitimate private interests of the people when planning, locating or constructing such highways.

HeinOnline -- 1965 991 1965

BE IT FURTHER RESOLVED, that a copy of this Resolution be sent by the Secretary of State to the United States Senators and Congressmen of the State of Montana, to the Governor of the State of Montana, to the Highway Commission of the State of Montana, and to the Director of the Federal Bureau of Public Roads.

Approved March 9, 1965.

HOUSE JOINT RESOLUTION NO. 38

A Joint Resolution of the Senate and House of Representatives of the State of Montana Expressing Support For the United States Commitment of Assistance to the Republic of Viet Nam and Further Expressing Support For Recent United States Military Action Against Bases in North Viet Nam.

WHEREAS, we as Legislative Representatives of a free people in a Constitutional Republic have abundant evidence of the necessity to resist tyrannical government; and

WHEREAS, the United States Government has followed a policy of aiding other governments in resisting external tyranny since the founding of our Republic; and

WHEREAS, Montana's Citizens have sacrificed their lives in every war since the Spanish American War in support of said policy; and

WHEREAS, the masters of totalitarian Communism have never ceased their aggression in East Asia since the close of World War II; and

WHEREAS, the United States has committed itself to assistance in resisting tyranny in South East Asia; and

WHEREAS, certain Communist powers are today savagely terrorizing the people of the Republic of Viet Nam through a combination of external armed aggression and internal armed subversion with the intent of domination; and

WHEREAS, the United States is actively engaged in assisting the Government of the Republic of Viet Nam to resist this Communist perpetrated terror by supplying military training and assistance; and

WHEREAS, Communist military forces have used the territory of Communist controlled North Viet Nam as a base for military aggression against the Republic of Viet Nam; and

HeinOnline -- 1965 992 1965

WHEREAS, the Communist masters of North Viet Nam, aided and abetted by the Communist masters of Mainland China and the Soviet Union, have purposely escalated the extent of this conflict by attacking United States military installations in the Republic of Viet Nam; and

WHEREAS, the United States Government, in support of the Republic of Viet Nam, has replied to the Communist escalation of the conflict by striking at Communist bases of aggression in the territory of North Viet Nam; and

WHEREAS, the United States Government, in support of the Republic of Viet Nam, has replied to the attack on United States support installations in the Republic of Viet Nam by striking at Communist bases of aggression in the territory of North Viet Nam; and

WHEREAS, the domination of the Republic of Viet Nam by Communist aggressors would destroy the confidence of independent peoples of Asia and elsewhere in the ability of the United States to meet its defense commitments.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the determination of the President of the United States to persevere in the United States commitment of assistance to the Republic of Viet Nam and the defeat of aggression has the full support of this Assembly.

BE IT FURTHER RESOLVED, that the military action taken by forces of the United States against aggressor bases in North Viet Nam has the full support of this Assembly.

BE IT FURTHER RESOLVED, that this demonstration of ability and willingness to meet aggression at any level has the full support of this Assembly.

BE IT FURTHER RESOLVED, that the continued effort of the United States to repel aggression in Viet Nam, though that effort may necessarily be of a long term nature has the full support of this Assembly.

BE IT FURTHER RESOLVED, that the Secretary of State of the State of Montana be instructed to send copies of this Resolution to the Honorable Lyndon B. Johnson, President of the United States; to the Honorable Dean Rusk, United States Secretary of State; to the Honorable Robert McNamara, United States Secretary

HeinOnline -- 1965 993 1965

of Defense; to the Honorable Mike Mansfield and the Honorable Lee Metcalf, United States Senators from Montana;; to the Honorable James F. Battin and the Honorable Arnold H. Olsen, United States Congressmen from Montana; to the Honorable J. W. Fulbright, Chairman of the United States Senate Committee on Foreign Relations and to the Honorable Thomas E. Morgan, Chairman of the United States House Foreign Affairs Committee.

Approved March 2, 1965.

HOUSE JOINT RESOLUTION NO. 40

A Joint Resolution of the Senate and House of Representatives of the Thirty-Ninth Legislative Assembly of the State of Montana Providing For Consent and Payment For Projects Not Included in the General Fund Budget.

Pursuant to the provisions of section 82-3316, R. C. M. 1947, for the purpose of providing legislative consent and payment for projects not included in the proposed general fund budget.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE THIRTY-NINTH LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. There is appropriated nine thousand eighty-four dollars ($9,084.00) from the federal and private revenue fund, capitol building account for the following repairs and remodeling:

State Capitol Building	For the Year Ending June 30, 1966
1. Painting House Chambers	$2,043.00
2. Painting House lobby and entry	$ 447.00
3. Painting House committee rooms and offices — fourth floor	$1,528.00
4. Painting House committee rooms and offices—third floor	$1,801.00
5. Painting House gallery	$1,335.00
6. Remove fixtures and plumbing and remodel ladies' rest room—third floor	$ 450.00

HeinOnline -- 1965 994 1965

7. Remodel the assigned basement room for duplicating purposes $1,480.00

Section 2. In the event that matching funds or contributions from any source for any of the above projects are available and obtainable for the projects herein consented to, the appropriations herein provided shall be deemed to include such matching or contributed funds. The respective boards and agencies involved are hereby authorized and directed to take such steps and execute such instruments as may be necessary to obtain such matching or contributed funds.

HOUSE JOINT RESOLUTION NO. 41

A Joint Resolution of the Senate and House of Representatives Consenting to a Capitol Construction Program.

WHEREAS, Section 82-3316, R. C. M. 1947 provides, that with certain exceptions, a building costing more than $25,000.00 may not be constructed without the consent of the legislative assembly, and

WHEREAS, Section 82-3316, R. C. M. 1947 further provides that when a building is to be financed in such a manner as not to require legislative appropriation of moneys, such consent shall be in the form of a joint resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That, subject to the availability of funds, other than State funds, the legislative assembly consents to the following capitol construction program:

Addition, Veterans' and Pioneer Memorial Building $350,000.00

SENATE JOINT RESOLUTION NO. 1

A Joint Resolution of the House of Representatives and the Senate of the State of Montana Requesting That the Legislative Council Conduct a Comprehensive Study of Retirement Systems for Policemen and Firemen in the State, and Submit a Written Report of Their Findings Together With Any Necessary Recommenda-

HeinOnline -- 1965 995 1965

tions and Implementing Legislation to the Fortieth Legislative Assembly.

WHEREAS, sound retirement systems are of primary importance to a municipality seeking to attract competent, well qualified policemen and firemen, and

WHEREAS, local retirement systems for policemen and firemen are financed in part by a local property tax, and

WHEREAS, the financial condition of these funds thus has a direct bearing on local property taxes, and

WHEREAS, if these funds are not actuarially sound at the present time, the municipalities may be incurring a steadily increasing financial obligation, and

WHEREAS, in the future the municipalities may be faced with the equally unpleasant alternatives of large increases in local property taxes or reductions in benefits paid, and

WHEREAS, a sudden and drastic increase in taxes upon property in the future to finance an unfunded liability being incurred at the present time would disrupt the financial structure of municipalities of the state, and

WHEREAS, it would be inequitable to reduce the benefits paid to retired policemen and firemen, or their surviving dependents, if retirement funds were not sufficient, and

WHEREAS, a major problem of these systems appears to be the small membership because contributions and benefits of retirement systems are usually computed on averages, but in very small systems averages have limited application, and

WHEREAS, as a result of the present provision for financing these systems, some of the funds never become large enough to realize substantial interest earnings although this is an important source of revenue to most retirement systems, and

WHEREAS, a preliminary survey of these systems conducted by the Legislative Council during the 1963-65 biennium in conjunction with a study of state retirement systems raises doubt regarding the financial condition of some of the funds, and

WHEREAS, any adjustments in the systems must be equitable to the local taxpayers and members of the systems alike, and

WHEREAS, reasonable recommendations to improve the systems can be made only after an actuarial examination of the local funds has been completed.

HeinOnline -- 1965 996 1965

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council conduct a comprehensive study of retirement systems for policemen and firemen in the state, retaining any consultants necessary, and submit a written report of their findings together with any necessary recommendations and implementing legislation to the Fortieth Legislative Assembly.

BE IT FURTHER RESOLVED, that this study should include, but not be limited to, the present financial and actuarial status of the systems, investment procedures, rate of employer and employee contribution, and administrative structure including the feasibility and desirability of an agency of state government administering and investing the funds.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send a copy of this resolution to the Executive Director of the Legislative Council.

Approved February 12, 1965.

SENATE JOINT RESOLUTION NO. 3

A Joint Resolution of the Senate and House of Representatives Directing the Legislative Council to Compile an Inventory of Water, Mineral, Timber, Petroleum, and Other Natural Resources of the State and Submit a Written Report of This Inventory to the Fortieth Legislative Assembly.

WHEREAS, the state has a responsibility for planning and leadership in the development of its natural resources; and

WHEREAS, full development and utilization of water, minerals, timber, petroleum, and other natural resources is essential to the continued economic growth of the state, and

WHEREAS, there is need for a comprehensive inventory of the water, mineral, timber, petroleum, and other natural resources of the state, and

WHEREAS, only with such an inventory available can plans be made for optimum progress toward development of these natural resources by the state through cooperation and by sharing responsibility for resources development with other levels of government, and

HeinOnline -- 1965 997 1965

WHEREAS, a practical and workable program of resource development is needed by the state of Montana, its political subdivisions, and associated federal agencies, and by groups and organizations concerned with development of water, mineral, timber, and other resources of the state.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council is requested to compile a comprehensive inventory of the water, mineral, timber, petroleum, and other resources of the state.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to submit a written report of their findings to the Fortieth Legislative Assembly.

BE IT FURTHER RESOLVED, that in the accomplishment of this study the Council may invite the cooperation, assistance and financial participation of any entity of government, and any person or organization interested in the development of Montana's water and other natural resources.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to furnish a copy of the resolution to the Executive Director of the Legislative Council.

Approved March 1, 1965.

SENATE JOINT RESOLUTION NO. 4

A Joint Resolution of the House of Representatives and the Senate of the State of Montana Requesting and Urging That the Congress of the United States Propose an Amendment to the Constitution of the United States as Provided in Article V of the Constitution of the United States Providing That a State Having a Bicameral Legislature May Apportion Membership in One House of the Legislature on Other Than a Population Basis.

WHEREAS, the Supreme Court of the United States has ruled that states having a bicameral legislature may not apportion membership in either house thereof on other than a population basis without violating the Constitution of the United States, and

WHEREAS, the Constitution of Montana provides for the apportionment of the Senate on other than a population basis.

HeinOnline -- 1965 998 1965

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE STATE OF MONTANA:

That the Congress of the United States is hereby respectfully requested and urged to propose and submit to the legislatures of the various states for ratification, as provided in Article V of the Constitution of the United States, the following amendment to the Constitution of the United States:

"ARTICLE.....

"Secion 1. Nothing in this Constitution shall prohibit any state which shall have a bicameral legislature from apportioning the membership of one house of such legislature on factors other than population, provided that the plan of such apportionment shall have been submitted to and approved by a vote of the electorate of that state.

"Section 2. Nothing in this Constitution shall restrict or limit a state in its determination of how membership of governing bodies of its subordinate units shall be apportioned.

"Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several states within seven years from the date of its submission to the States by the Congress."

BE IT FURTHER RESOLVED, that the Secretary of State forward a duly certified copy of this Resolution to the Secretary of the United States Senate and the Speaker of the House of Representatives of the United States and to each United States Senator and to each Member of Congress from the State of Montana.

Approved February 8, 1965.

SENATE JOINT RESOLUTION NO. 5

A Joint Resolution of the Senate and the House of Representatives of the State of Montana Making Application to the Congress of the United States to Call a Convention for the Purpose of Amending the Constitution of the United States So as to Provide That a State Having a Bicameral Legislature May Apportion Membership in One House of Its Legislature on Other Than a Population Basis.

HeinOnline -- 1965 999 1965

WHEREAS, the Supreme Court of the United States has ruled that states having a bicameral legislature may not apportion membership in either house thereof on other than a population basis without violating the Constitution of the United States, and

WHEREAS, the Constitution of Montana provides for the apportionment of the Senate on other than a population basis.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Thirty-ninth Legislative Assembly of the State of Montana respectfully applies to the Congress of the United States to call a convention for the purpose of proposing the following article as an amendment to the Constitution of the United States.

"ARTICLE.....

"Section 1. Nothing in this Constitution shall prohibit any state which shall have a bicameral legislature from apportioning the membership of one house of such legislature on factors other than population, provided that the plan of such apportionment shall have been submitted to and approved by a vote of the electorate of that state.

"Section 2. Nothing in this Constitution shall restrict or limit a state in its determination of how membership of governing bodies of its subordinate units shall be apportioned.

"Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the Several States within seven years from the date of its submission to the States by the Congress."

BE IT FURTHER RESOLVED:

That if Congress shall have proposed an amendment to the Constitution identical with that contained in this resolution prior to June 1, 1965, this application for a Convention shall no longer be of any force or effect.

BE IT FURTHER RESOLVED:

That a duly certified copy of this resolution be immediately transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States and to each member of the Congress from this state.

Approved February 8, 1965.

HeinOnline -- 1965 1000 1965

SENATE JOINT RESOLUTION NO. 8

A Joint Resolution of the Senate and the House of Representatives of the State of Montana Registering Opposition to the Proposed Merger of the Great Northern; Northern Pacific; Chicago, Burlington and Quincy; and the Spokane, Portland and Seattle Railroads.

WHEREAS, these are highly profitable railroads with continuous dividends paid from 1943 or longer with the dividend returns during the past 5 years an equivalent return on market price per share of five percent for the Northern Pacific, more than six percent for the Great Northern, and seven and one-half percent for the Chicago, Burlington and Quincy Railroad, and

WHEREAS, the economy of Montana is largely based upon production of raw materials that are moved by rail transportation to marketing areas, and

WHEREAS, curtailment of freight service would have a disastrous effect upon the economy of the state, and

WHEREAS, the applicant railroads in Finance Docket 21478 testified that after merger freight traffic on the Northern Pacific Railroad from Billings eastbound, would be reduced 63.7 percent, and westbound through Laurel the freight traffic would be reduced 53 percent, and

WHEREAS, the Montana Board of Railroad Commissioners, other elected officials of the State of Montana, and many shippers appeared before the Interstate Commerce Commission Hearing Examiner and protested granting of the application in the finance docket cited above, and

WHEREAS, Montana shippers in testifying before the Interstate Commerce Commission Examiner cited instances where curtailment of freight service specifically proposed by the applicant railroads would work a hardship on their business or industry detrimental to the economy of Montana, and

WHEREAS, the Great Northern and Northern Pacific Railroads own ninety-eight (98) percent of the Chicago, Burlington and Quincy Railroad, and

WHEREAS, said two Northern railroads previously attempted a merger which application was considered by the Interstate Commerce Commission as a merger which would have resulted in a decided loss of railroad competition for a large area of the United States, and

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WHEREAS, the applicant railroads are very strongly in the motor carrier transportation business themselves and consolidation would tend to decrease competition within Montana in this form of transportation, and

WHEREAS, the Interstate Commerce Commission Hearing Examiner who disregarded these facts and recommended approval of the proposed merger has been charged by the United States Department of Justice with having "an overwhelming and undisciplined bias" in favor of the merger "which resulted in an unfair hearing" and a report "rife with omission, distortion of evidence and error."

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Senate and the House of Representatives of the State of Montana hereby register opposition to the proposed merger of the Great Northern; Northern Pacific; Chicago, Burlington and Quincy; and the Spokane, Portland and Seattle Railroads.

BE IT FURTHER RESOLVED that the Secretary of State of the State of Montana is instructed to send copies of this resolution to the President of the United States, to each member of the Interstate Commerce Commission, to the Department of Justice of the United States, and to each member of the Montana congressional delegation.

Approved March 1, 1965.

SENATE JOINT RESOLUTION NO. 9

A Joint Resolution of the Senate and House of Representatives Asking the Legislative Council to Conduct a Study of the Existing Tax Structure, Estimated Revenue from Various Types of Taxes, the Needs for New State Revenue and the Effects on the Montana Economy of the Various Revenue Sources.

WHEREAS, Montana's tax structure is characterized by an extreme emphasis upon property for the financing of public services. Over the years, additional state taxes have been enacted and rates increased as state level needs for revenue have arisen. Considering the over-all picture, these state level taxes have not financed adequately those functions which now have become dependent upon state support.

WHEREAS, the present tax structure of the state is by accident rather than design.

HeinOnline -- 1965 1002 1965

WHEREAS, Montana is one of the relatively few states still dependent upon the classification of different types of property for taxation purposes. Considerable controversy revolves around the equity of the seven classes of property and their percentage factors. This controversy will not be alleviated by merely rejuggling the statutes in a piecemeal fashion. Some of the laws are so unworkable that efforts are not even made locally to collect taxes under some of the classifications.

WHEREAS, a look into the future leads us to believe that there will be ever-increasing demands upon Montana's state level tax structure for financing of public services. Additional demands will be made in the field of public schools and higher education for financing enrollment and cost increases. Montana's present level tax structure is so narrow that it will not provide revenue of this magnitude.

WHEREAS, a study of Montana's tax structure is needed in order to determine the impact of its tax structure on the various kinds of economic endeavor and on Montana's competitive position in the various economic areas. As a result of this study, recommendations should be made for changes in the present tax structure to adjust adverse impacts on economic growth and development, remove inequities in the distribution of tax burden, and provide adequate revenue to meet the estimated needs of Montana's state and local governments in the future.

NOW, THEREFORE BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Senate and House of Representatives requests the Legislative Council to conduct a study of the existing tax structure, estimated revenue from various types of taxes, the needs for new state revenue and the effects on the Montana economy of the various revenue sources. The study should include, but not be limited to, estimated revenue from various taxes and rates, the progressive or regressive nature of each alternative type, the incidence of the tax burden upon persons in various income categories, the effect of excluding certain transactions from the tax, and alternative means of integrating each type of tax with other state taxes.

BE IT FURTHER RESOLVED, that the State Board of Equalization, the University of Montana, and Montana State University provide the Legislative Council with information and assistance in the field of tax research, and make available to the Legislative Council,

HeinOnline -- 1965 1003 1965

to the extent possible, the services of persons knowledgeable in the field of taxation, public finance and economics.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to submit a report of its findings, without recommendations, to the Fortieth Legislative Assembly.

BE IT FURTHER RESOLVED, that the secretary of state is instructed to send a copy of this resolution to the Executive Director of the Legislative Council, the Chairman of the State Board of Equalization, the President of the University of Montana, and the President of the Montana State University.

Approved March 9, 1965.

SENATE JOINT RESOLUTION NO. 11

A Joint Resolution of the Senate and House of Representatives of the State of Montana to the Congress of the United States and to the Members of the Montana Congressional Delegation, Requesting That Certain Provisions of Public Law 566, Be Enlarged to Fit the Needs of the State of Montana and Other Western States Similarly Situated.

WHEREAS, at the present time Public Law 566 contains certain limitations upon the size of projects in which the Soil Conservation Service can participate under this act, and

WHEREAS, these limitations are 5,000 acre feet for flood control, 25,000 acre feet for reservoirs, and 250,000 acres of watershed area above any project, and

WHEREAS, within the State of Montana and many other mountainous western states, the limitation for the flood control is very unrealistic when considering the size of some of the reservoir potentials within the state and the history of flash floods in Eastern Montana, and

WHEREAS, the limitation of 25,000 acre feet for any one reservoir project is also unrealistic when optimum reservoir sites in the mountainous regions may have to be quite a bit larger, and

WHEREAS, it is not entirely possible to put a reservoir site on a stream within a watershed in such a manner that only 250,000 acres of the watershed drain into the reservoir, especially where certain areas in the United States get two to three times as much rainfall as Montana and other arid western states, and

HeinOnline -- 1965 1004 1965

WHEREAS, the limitations found within Public Law 566 may be more adaptable to those lands east of the Mississippi and several of the states in the south central portion of the United States west of the Mississippi, and

WHEREAS, the sponsoring organizations within the several western states could better plan and construct projects under Public Law 566 if these limitations were enlarged.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Congress of the United States and the Montana Congressional Delegation are requested to consider the provisions of Public Law 566 in light of the peculiar geography of the State of Montana and other western states so situated, and are requested to enact legislation enlarging the limitations in Public Law 566, if not for the whole United States, for those states west of the Mississippi to the following: the flood control allowance to be raised to 12,500 acre feet, the reservoir limitation be raised to 40,000 acre feet, and the watershed drainage area be enlarged to 400,000 acres.

BE IT FURTHER RESOLVED, that the Secretary of State is instructed to send a certified mimeographed copy of this Resolution to each member of the Congress of the United States; to the Secretary of Agriculture and the Director of the Soil Conservation Service.

Approved March 4, 1965.

SENATE JOINT RESOLUTION NO. 12

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting That the Legislative Council Study the Feasibility and Desirability of Consolidating the Administrative Functions of Professional and Occupational Licensing Boards.

WHEREAS, many professional and occupational licensing boards do not have adequate clerical staff for the performance of their functions, and

WHEREAS, because there is not adequate clerical staff, board members are often required to perform clerical duties, and

WHEREAS, there is duplication of effort in administrative functions because each board must have a secretary for clerical duties, many of whom function on a part-time basis, and

HeinOnline -- 1965 1005 1965

WHEREAS, if the administrative functions of professional and occupational licensing boards were consolidated it would enhance the possibility that adequate clerical staff would be available, and

WHEREAS, statutes pertaining to these boards are also replete with useless and confusing diversities such as different provisions for salaries to secretaries, different rates of per diem allowed members, different reporting requirements, different methods of appointing board members, and

WHEREAS, many states have in some degree centralized licensing functions.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council is requested to conduct a study of the feasibility and desirability of consolidating the administrative functions of professional and occupational licensing boards, while retaining the separation and individuality of the boards for purposes of examination, certification and hearings relating to professional conduct.

BE IT FURTHER RESOLVED that this study shall also include an examination of present statutes relating to such boards.

BE IT FURTHER RESOLVED that the Legislative Council is requested to submit a written report of its findings together with recommendations for improvements, and implementing legislation if necessary, to the Fortieth Legislative Assembly.

BE IT FURTHER RESOLVED that the secretary of state is instructed to send copies of this resolution to the Executive Director of the Legislative Council.

Approved March 1, 1965.

SENATE JOINT RESOLUTION NO. 13

A Joint Resolution of the Senate and House of Representatives of the State of Montana Requesting the Legislative Council to Study Water Conservancy Districts and Report Its Findings to the Fortieth Legislative Assembly of the State of Montana.

WHEREAS, the natural resources of Montana are many and varied and require the combined effort of Federal, state and local

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agencies to properly and adequately conserve and develop them for the benefit of all of the people, and

WHEREAS, the development of multiple purpose projects to conserve and develop Montana's water resources for flood protection, river control, drainage, water storage, irrigation, industrial and domestic use, waste disposal, pollution control, recreation and other beneficial purposes is one of the most important and complex of conservation problems of this state, and

WHEREAS, other states have through the establishment of water conservancy districts been able to develop through local governmental agencies multipurpose water conservation projects which have brought great benefits to the people within such districts, and

WHEREAS, the preparation of enabling legislation under which water conservancy districts could be established in Montana presents many problems which require intense and detailed study, and

WHEREAS, the making of such studies of water conservancy districts and the preparation of such enabling legislation is needed and desirable.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council study water conservancy districts and their operations in other states and make a detailed study of the enabling legislation which has made possible the establishment of such districts in other states.

BE IT FURTHER RESOLVED, that the Water Conservation Board, the University of Montana, and the Montana State College are requested to provide the Legislative Council with technical advice and other needed assistance in this study, and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings along with any necessary legislation to the Fortieth Legislative Assembly, and

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to the Executive Director of the Legislative Council, the Chairman of the Water Conservation Board, the President of the University of Montana, and the President of Montana State College.

Approved March 4, 1965.

HeinOnline -- 1965 1007 1965

CHANGES OF NAMES DECREED IN 1963 - 1964

Date of Judgment	Original Name	Name Decreed	Residence
March 21, 1963	Neil Scott Burroughs	Neil Scott Holt	Missoula
April 19, 1963	Hom Yock Wing a/k/a Fook (Jim) Lee and You Kim Lee for themselves and on behalf of their children	Jim Lee Hom	Hamilton
		You Kim Hom	Hamilton
	Emily Lee	Emily Ann Lee Hom	Hamilton
	Fong Lee	Fong Lee Hom	Hamilton
	Tom Lee	Tom Lee Hom	Hamilton
	Johnny Lee	Johnny Lee Hom	Hamilton
April 23, 1963	Donald Roy Horn	Donald Roy Dammel	Geraldine
April 29, 1963	Lynda Lou Beaman	Lynda Lou Monson	Havre
July 10, 1963	George Walton Wilcox	George Walton Johnson	Havre
Aug. 12, 1963	Baby Halland	Lawrence Todd Metrovich	Windham
Aug. 12, 1963	Baby Halland	Leslie Allen Metrovich	Windham
Aug. 22, 1963	Wilhelamine Dietz	Minnie Margaret Summers (nee Dietz)	Missoula
Oct. 8, 1963	Lena Mae Striker	Rena Blakeslee	Missoula
Oct. 31, 1963	Esther Bauer Cress	Esther Bauer Smith	Missoula
Dec. 6, 1963	Paul Arnold Peterson	Leo Alan Peterson	Hamilton
Jan. 22, 1964	Robert Kenneth Triplett	Robert Kenneth Townsend	Billings
Jan. 31, 1964	Evelyn Stromme Thompson	Evelyn Stromme	Miles City
Feb. 7, 1964	James Lee Bower	James Lee Yager	Billings
Feb. 14, 1964	David Wallace Noble	David Leon Feagins	Glasgow AFB
Feb. 19, 1964	James Henry Lefsofski	James Henry Sadler	Great Falls
Feb. 20, 1964	Daisy Margaret Gould	Daisy Margaret Oglesbee	Missoula
Feb. 28, 1964	William Joseph Filler	William Milford Minor	Havre
March 7, 1964	Robert Louis Garcia	Robert Louis House	Billings
March 9, 1964	James Earl Montgomery	James Irwin Richards	Gallatin County
March 10, 1964	George Nelson Brock	George Nelson Fisher	Trout Creek
March 10, 1964	Stanley Sperling Brock	Stanley Sperling Fisher	Trout Creek
March 16, 1964	Alex John King	Alex John Neff	Bozeman
March 16, 1964	Carl Dean Sousley	Carl Dean Rabideau	Flathead County
March 25, 1964	Edward L. Kalafatich	Edward L. Kalafat	Anaconda
March 30, 1964	Robert Roy Nordley	Robert Roy Driscoll	Three Forks
April 22, 1964	Mary Alice Bartlett	Alice Shaffer	Miles City
May 5, 1964	Elsie Lillian Poe	Elsie Lillian Sullinger	Billings
May 7, 1964	Gifford William Rodgers	Gifford William Nafus	Great Falls
May 11, 1964	Jeffrey Wayne Moses	Jeffrey Wayne Liebelt	Stanford
May 11, 1964	Michael Dean Moses	Michael Dean Liebelt	Stanford
May 15, 1964	Evan Dennis McArthur	Dennis Ernest	Glendive
May 29, 1964	Walter Herbert Kemp	Walter Herbert Kruger, Jr.	Helena
June 5, 1964	James Ray Lowe	James Ray Rooney	Billings
June 18, 1964	Cheryl Sue Wray	Cheryl Sue Wray Hutchinson	Glasgow AFB
June 30, 1964	M. Myron Goldman	Michael David Goldman	Glasgow AFB
July 7, 1964	Una Kay Funderburg	Una Kay DeCock	Rapelje
July 8, 1964	Dolly Lee Maurantonio	Dolly Lee Clarke	Great Falls
July 9, 1964	Ruth Diana Gibson	Ruth Diana Giles	Belfry
July 13, 1964	Baby boy Klingler	Leonard Leon Proctor	Windham
July 14, 1964	Valeria C. Friesz	Valeria C. Caekaert	Miles City
July 27, 1964	Amber Moulds Massoni	Amber Moulds Christinson	Glasgow
Aug. 3, 1964	Robert Lee Hughes	Robert Lee Fauth	Glasgow
Aug. 10, 1964	Roger L. Stump	Roger L. Billman	Missoula
Aug. 18, 1964	Jayne Konkright	Jayne Hill	Miles City
Aug. 26, 1964	Kenneth Wayne Jorgenson	Kenneth Wayne Brown	Great Falls
Sept. 8, 1964	William Robert Conway	William Robert Miller	Anaconda
Sept. 9, 1964	Walter Eugene Carrol, Jr.	Gordon Eugene Spencer	Helena
Sept. 11, 1964	Donald Ray Alva	Donald Ray Cousar	Billings
Sept. 14, 1964	Robert Kemp	Robert Kemp Larson	Windham
Sept. 16, 1964	Philip Judelovitz	Phil Judd	Butte
Sept. 17, 1964	William Thomas Field	William Field Lay	Roscoe
Sept. 30, 1964	William Arthur Penney	William Arthur Hill	Great Falls
Oct. 7, 1964	Don Lee Nielsen	Dick Joseph Richards	Butte
Oct. 23, 1964	Walter Chester Martin and Ellet Chester Janski	Charles H. Williams	Billings
Oct. 30, 1964	Newton Heitman Culler	Newton Hiteman Everett	Billings
Oct. 30, 1964	Lucille Z. Gookin	Lucille Z. Garlington	Miles City
Nov. 5, 1964	Florence Alice Longfox a/k/a Virtual Alice Longfox /a/ka Virginia Alice Longfox	Virginia Alice Longfox	Hardin YRS

HeinOnline -- 1965 1008 1965

CHANGES OF NAMES DECREED IN 1963 - 1964

Date of Judgment	Original Name	Name Decreed	Residence
Nov. 16, 1964	John Steven Jenkins	John Steven Fullerton	Bozeman
Nov. 18, 1964	Nancy Kay Lewis	Nancy Kay Akins	Billings
Dec. 4, 1964	John W. McGinty	John W. Alexander	Harlowton
Dec. 11, 1964	Martin Connor Gilmore	James F. Boylan	Missoula
Dec. 18, 1964	Leila Estella Arter	Leila Estella Alvord	Billings
Dec. 18, 1964	Gerald Ludwig Smith	Gerald Ludwig Weir	Butte
Dec. 28, 1964	Maxine Inez Watkins	Maxine Inez Skarda	Stanford
Dec. 28, 1964	Edward Lewis Weigand	Edward Lewis Skarda	Stanford
Dec. 28, 1964	Janice Arlene Weigand	Janice Arlene Skarda	Stanford

HeinOnline -- 1965 1009 1965

HeinOnline -- 1965 1010 1965

APPENDIX

HeinOnline -- 1965 1011 1965

HeinOnline -- 1965 1012 1965

APPENDIX

The following constitutional amendment was proposed by the Thirty-eighth Legislative Assembly of the State of Montana, and was approved by the following vote at the General Election held November 3, 1964:

For the amendment:	119,229
Against the amendment:	65,679

CHAPTER 92, LAWS OF 1963

An Act for the Submission to the Qualified Electors of the State of Montana an Amendment to Section 29 of Article VIII of the Constitution of the State of Montana Relating to the Salary of the Justices of the Supreme Court and the Judges of the District Courts and Providing for the Quarterly Payment Thereof by the State of Such Salary and Providing that Such Salary Shall Not Be Diminished During the Terms for Which Such Justices and Judges Shall Have Been Respectively Elected.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 29 of Article VIII of the Constitution of the State of Montana be amended as hereinafter provided, and that the question of such amendment be submitted to the qualified electors of the State of Montana, at the general election to be held in November of the year 1964.

Section 2. That Section 29 of Article VIII of the Constitution of the State of Montana be and it is hereby amended to read as follows:

"Section 29. The justices of the supreme court and the judges of the district courts shall each be paid quarterly by the state, a salary, which shall not be diminished during the terms for which they shall have been respectively elected."

Section 3. This amendment shall be submitted to the qualified electors of the State of Montana by being placed upon the official ballot as provided by Chapter 11 of Title 23 of the Revised Codes of Montana, 1947, as amended and there shall be printed on such ballots the title of this act and the following words:

"☐ For the above Amendment.

☐ Against the above amendment."

HeinOnline -- 1965 1013 1965

GENERAL INDEX

NOTE:

Index of Appropriations Follows General Index

HeinOnline -- 1965 1 1965

HeinOnline -- 1965 2 1965

INDEX TO TEXT

A

	Sec.	Page
ADJUTANT GENERAL		
Bond of	35	489
ADOPTION		
Inheritance rights of adopted child, kindred	Ch. 102	197
AGED PERSONS		
Committee on problems of aging	Ch. 73	130
Fire safety requirements for boarding and nursing homes	Ch. 22	38
Joint county hospitals or nursing homes authorized	Ch. 100	195
Long-term care facilities, regulation and licensing by board of health	Ch. 162	413
Medical aid and old age assistance	Ch. 212	692
AGRICULTURE		
Bond of commissioner	9	474
Bond of grain inspector	10	474
Commercial feed		
inspection fees, deposit of	8	790
registration fees, deposit of	7	789
Commercial fertilizer		
inspection fees, deposit of	6	788
licensing, deposit of fees, fines, appeals	Ch. 55	106
Embargo against importation of material containing noxious weed seeds	Ch. 44	92
Fees		
Babcock test, license to operate	2	256
Babcock test, temporary permit to operate	1	256
cream grader, weigher and sampler license	3	257
egg dealer's license	4	257
egg grader's license	7	258
milk and cream buying stations, licenses	5	258
Montana state egg seal	6	258
Fur-bearing animals, raising in captivity	Ch. 25	41
State sealer		
deputy, bonds	44	495
licensing of petroleum dealers	Ch. 153	364
regulation of packaged commodities	Ch. 160	400
Weed control and extermination districts, dissolution	Ch. 47	94
AIR POLLUTION		
Public nuisance, board of health as study and research agency	Ch. 254	799
ALCOHOLIC BEVERAGES		
See Liquor Control Board and Beer		
ANIMALS		
Fur-bearing, raising in captivity	Ch. 25	41
Shelter for household pets	Ch. 131	304
ARCHITECTS		
Compensation scale, errors and omissions insurance on public building	Ch. 220	716

HeinOnline -- 1965 3 1965

	Sec.	Page
Public building, appointment and approval, architect and consulting engineer	Ch. 231	742
Time schedule for payments on public building	Ch. 209	687
ATTACHMENT		
Real property, release where no action taken	Ch. 97	188
ATTORNEY GENERAL		
Appeals of prosecutions under Optometry Act	Ch. 204	680
Bureau of criminal identification and investigation, duties	35	651
Criminal investigator, position established	Ch. 268	843
General duties	89	669
AUTOPSIES		
Limitation on right to perform	87	667

B

BAIL		
Notice to bondsman before forfeiture	Ch. 181	501
BANKS AND BANKING		
Branch banks prohibited, exceptions, distances	Ch. 80	150
Legal holidays and Saturday closing	Ch. 6	10
Organization and incorporation, number of directors, change of	Ch. 7	11
State superintendent, bond	45	495
Superintendent of banks and examiners, bonds	13	475
BARBERS		
Examiners board, secretary-treasurer, bond	23	482
BEER		
Retail licenses, conditions, to whom issued	Ch. 271	849
Wholesalers' licenses, corporations	Ch. 222	719
BOARDS		
See State Boards		
BONDS AND UNDERTAKINGS		
Bail, notice to bondsman before forfeiture	Ch. 181	501
Bond validating Act of 1965	Ch. 75	133
Payroll bonds required of lessees of restaurants, bars and taverns	Ch. 155	379
See Department of Administration, Controller		
BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION		
Established	32-37	650

C

CATTLE PROTECTIVE DISTRICTS		
Formation, procedure	Ch. 91	177
CENTENNIAL COMMISSION		
Continued as temporary agency	Ch. 151	361
CHARITABLE INSTITUTIONS		
Care of retired, aged, chronically ill, tax exemption	Ch. 85	166

HeinOnline -- 1965 4 1965

INDEX

	Sec.	Page
CHILDREN		
Day care facilities for, licensing	Ch. 247	779
Dependent and neglected, state payments for care in licensed private institutions	Ch. 194	517
Handicapped, census to be taken	Ch. 213	703
Reporting of physical abuse or wilful neglect of	Ch. 178	498
CHIROPRACTIC		
Bond of board treasurer	24	482
License fee increase, educational programs	Ch. 8	14
CIGARETTES		
Montana Cigarette Sales Act	Ch. 258	816
Referendum proposed, tax for state buildings	Ch. 264	836
CITIES AND TOWNS		
Bonds of officers	19	480
Construction and maintenance of streets and highways in or near	Ch. 210	688
Flood control projects authorized	Ch. 272	852
Group health insurance plans, participation increase	Ch. 83	154
Industrial development, Act to provide for	Ch. 51	97
Landing fields and parking areas, structures on	Ch. 27	45
Mutual aid agreements with fire districts	Ch. 2	4
Planning boards		
acceptance of gifts	Ch. 133	305
conducting projects outside of jurisdiction	Ch. 190	514
membership, citizen members	Ch. 189	513
Police departments, share of motor vehicle insurance premium tax	Ch. 261	833
Public employees' retirement system, employees of those not participating	Ch. 119	241
Salaries		
city attorneys	4	396
city or town clerks	5	396
city treasurers	3	395
commission-manager form of government	Ch. 71	129
mayor and aldermen	1	394
police judges	2	394
Special improvement districts		
construction of sidewalks, curbs and gutters	Ch. 19	28
swimming pools and recreation facilities	Ch. 206	684
Taxation		
all purpose mill levy authorized	Ch. 82	153
levy for emergencies	Ch. 31	49
Urban renewal projects, elections for	Ch. 38	67
Winter work programs, committees for	Ch. 68	124
CITY COUNTY PLANNING BOARDS		
Acceptance of gifts	Ch. 133	305
Conducting projects outside of jurisdiction	Ch. 190	514
Membership, citizen members	Ch. 189	513
CIVIL RIGHTS		
Declaration of, penalty for violations	Ch. 201	676
COMMERCIAL FEED		
Inspection fees, deposit of	8	790
Registration fees, deposit of	7	789
COMMERCIAL FERTILIZER		
Application for registration, licenses	1	107
Inspection fees, deposit of	6	788
Violations of Act, fines, appeals	2	109

HeinOnline -- 1965 5 1965

INDEX

	Sec.	Page
COMMUNITY COLLEGES		
Creation of districts authorized	Ch. 274	857
CONDOMINIUM		
See Unit Ownership Act	Ch. 120	243
CONSTITUTIONAL AMENDMENTS PROPOSED		
Continuity of state government in emergency	Ch. 243	766
Legislative assembly, representation according to population	Ch. 273	856
CONTRACTORS		
Nonresident, license tax	Ch. 277	875
COOPERATIVES		
Terms of trustees	Ch. 208	686
COORDINATES		
Montana Coordinate System adopted	Ch. 232	742
CORPORATIONS		
Assessment of capital stock, levy increased	Ch. 30	49
Certified copies of tax returns or certificates of good standing, cost	Ch. 187	511
License tax, percentage of net income	Ch. 269	845
Nurses, included in professional services Act	Ch. 56	110
COUNTIES		
Bonds of officers	19	480
Cattle protective districts, formation, levy	Ch. 91	177
Clerks and recorders, filing of death certificates in county of deceased's residence	Ch. 207	686
Commissioners, compensation	1	832
Flood control projects authorized	Ch. 272	852
Group health plans, participation increase	Ch. 83	154
Industrial development, Act to provide for	Ch. 51	97
Inquests, inmate of state prison, payment of costs	86	667
Inspection of highways and construction work, compensation, surveyors	2	832
Insurance of officers against liability for loss	Ch. 16	25
Joint hospitals or nursing homes for aged	Ch. 100	195
Planning boards		
acceptance of gifts	Ch. 133	305
conducting projects outside of jurisdiction	Ch. 190	514
membership, citizen members	Ch. 189	513
Poor fund, additional levy	Ch. 221	718
Prisoners, payment of medical expenses of	Ch. 179	500
Provision of medical aid and hospitalization, exceptions	16	700
Residence of county auditor, compensation	Ch. 72	130
Salaries of county officers	Ch. 216	708
Sanitary and/or storm sewer districts		
area polluting a water course	2	426
boundary changes	1	425
previous proceedings validated	5	428
rates, charges and rentals for services	3	426
reserve fund	4	427
Sheep, levy of fee for protection	Ch. 87	168
Sheriffs' mileage and expense delivering prisoners or patients	85	666
Soil conservation, assessments for	Ch. 152	362
Special improvement district bonds, time for repayment	Ch. 40	71
Taxation		
additional four-mill levy	Ch. 18	27

HeinOnline -- 1965 6 1965

	Sec.	Page
levy for classification and appraisal fund	Ch. 23	38
levy for emergencies	Ch. 31	49
levy for poor and indigent, exceptions	11	697
levy for poor fund, exceptions under Welfare Act	17	701
Water districts, inclusion of land in more than one county, procedures	Ch. 167	432
COUNTY ATTORNEYS		
Action on reports of abuse or neglect of children	Ch. 178	498
Duties, counsel for fire districts	Ch. 17	25
Obscene matter, destruction of	Ch. 230	741
Prosecution of violations under Optometry Act	Ch. 204	680
Prosecutions under Montana Highway Code		618
COURTS		
District		
court reporters' salaries	Ch. 114	230
disqualification of judges in civil actions	Ch. 234	753
disqualification of judges in criminal proceedings	Ch. 112	224
Jurors, persons over 70 years of age	Ch. 116	231
Juvenile, probation officers' salaries	Ch. 94	184
Supreme, bond of deputy clerk	48	497
CREDIT CARDS		
Fraudulent use of, penalties	Ch. 185	505
CRIMINAL INVESTIGATOR		
Position established	Ch. 268	843
CYSTIC FIBROSIS		
Services to afflicted children by board of health	Ch. 106	203

D

DEATH CERTIFICATES		
Filing in county of deceased's residence	Ch. 207	686
DENTISTS		
Bond of board secretary	25	482
DEPARTMENT OF ADMINISTRATION		
Controller, purchase of bonds for state officers and employees	Ch. 177	471
adjutant-general	35	489
agency for surplus property	49	497
agriculture, deputy state sealers	44	495
amount of bonds	2	471
banks, state superintendent	45	495
barber examiners secretary-treasurer	23	482
board of education secretary	32	486
board of railroad commissioners	31	486
bonds and undertakings Act, state officers and employees excepted	8	473
bonds in effect, validity	5	472
Carey land act board assistant secretary	47	497
chiropractic board treasurer	24	482
commissioner of agriculture	9	474
commissioner of state lands	37	492
commissioner of state lands employees	38	492
controller	41	493

HeinOnline -- 1965 7 1965

	Sec.	Page
county, city or township officers	19	480
dental examiners, secretary	25	482
department of institutions	36	491
deputy state officers	48	497
engineers and land surveyors board secretary	28	484
execution by responsible surety company	3	472
fish and game commissioners	46	495
fish and game director and wardens	14	475
grain inspectors	10	474
highway commission engineer	18	480
highway commission members	17	478
labor and industry commissioner	20	480
law librarian	21	481
liquor administrator	12	475
liquor control board	11	474
milk control board	16	476
pharmacy board secretary	26	483
proration of premiums	4	472
public welfare administrator	30	485
public welfare board members	29	484
registrar of motor vehicles	22	481
release of sureties, authorized	6	472
release of sureties, procedure	7	472
state fire marshal	42	494
state forester	39	493
state officer and employee defined	1	471
superintendent of banks, examiners	13	475
superintendent of public instruction	33	487
superintendent of state fish hatcheries	15	475
teachers' retirement system secretary	34	487
veterinary medicine board, secretary treasurer	27	483
water conservation board secretary	43	494
water conservation board legal counsel	50	498
DEPARTMENT OF INSTITUTIONS		
Codification and revision of laws	Ch. 199	639
attorney general, duties	89	669
autopsies, limitation on right to perform	87	667
bid requirements on public contracts, work done by inmates excepted	92	670
board, appointment, terms, qualifications	7	642
board, duties	5	641
board, functions, meetings, quorum	9	643
board, officers, compensation	8	643
bonds of officers and employees	36	491
clerk of state board of examiners, duties	90	669
commitment of children, procedure	78-84	662
commitment or transfer of inmate to institution outside of state	98	673
councils for welfare, health and institutions, and prison-made goods, abolished	102	674
definitions	2	640
director, appointment, qualifications, duties	4	641
examination of books and accounts	91	670
expenses of removal to facility, borne by	75	661
gifts, acceptance by institutions	96, 97	671
governor, power to enter into contracts under Western Interstate Corrections Compact	100	673
governor, powers and duties	94	671
hearings requested by other states	99	673
institutional industries	10-12	643

HeinOnline -- 1965 8 1965

	Sec.	Page
institutions included	3	640
juvenile disorderly persons, failure to attend school, commitment	88	669
mileage and expense of sheriff delivering prisoners or patients	85	666
Montana Center for the Aged	71-73	660
Montana Children's Center, commitment to	78-84	662
Montana Children's Center, established	38-44	651
Montana Veterans' Home	20-23	647
payment for care of residents	13-16	645
public welfare act, existing laws not repealed	84	666
sale of state property, controller	74	661
secretary of state, duties	95	671
state fire marshal inspections, report to	93	670
State Prison	24-31	648
State Prison, bureau of criminal identification and investigation	32-37	650
State Prison, furnishing and receiving certain articles forbidden	77	661
State Prison, inquest on death of inmate	86	667
State Pulmonary Disease Hospital	17-19	647
State Pulmonary Disease Hospital, charge for care, treatment and maintenance at	75	661
State Pulmonary Disease Hospital, quarters and facilities at	76	661
State Training School and Hospital	58-66	656
State Training School and Hospital division of mental hygiene	67-70	658
State Vocational School for Girls and State Industrial School	45-57	653
State Vocational School for Girls and State Industrial School, existing statutes not repealed	84	666
warden or superintendent of each institution, duties	6	642
Western Interstate Corrections Compact	98-99	673
DITCHES		
Assessment of capital stock, levy increased	Ch. 30	49
Overflowing highway. penalty		627
DRIVER EDUCATION PROGRAM		
Age at which operator's license may be issued	Ch. 227	738
Authorized	Ch. 226	733

E

ECONOMIC OPPORTUNITY ACT OF 1964		
Agencies of government authorized to participate	Ch. 263	834
ELECTIONS		
Ballots, number to be provided for each precinct	9	390
Cancellation of registration for failure to vote, notice to electors	4	192
Close of registration, procedure	3	385
Constitutional amendments proposed		
continuity of state government in emergency	Ch. 243	766
legislative assembly, representation according to population	Ch. 273	856
Convention expenses, payment of	8	389
County and city central committeemen, how elected	7	387
Deputy registrars, two political parties	3	192
Election returns, voting machines, irregular ballots	10	390
Electronic voting systems authorized, procedure	Ch. 20	29
Lists to political parties of persons reaching voting age	5	193
Method of registering, affirming of affidavit	2	191
Nominating certificates, when to be filed	5	386
Persons voting for school trustees, registered voters	Ch. 143	326

HeinOnline -- 1965 9 1965

	Sec.	Page
Political parties, authority and powers	1	383
Primary, date of holding	2	384
Printing and posting lists of registered electors	4	385
Registry cards	1	189
Residence required for election to U.S. Congress	Ch. 146	329
School trustees, election of additional, qualified electors	Ch. 214	704
Secretary of state to certify to county clerk names of persons nominated	6	386
ELECTRICIANS		
Electrical Safety Law	Ch. 148	340
appeals from decision of the board	13	347
apprentices	17	348
board, oath, meetings, powers	5	342
board established	4	341
definitions	3	341
disposition of fees	19	349
examination fees	15	347
exemptions from Act	12	346
license fees	14	347
license required	6	343
license requirements	7	343
license to nonresidents, reciprocity	9	345
license without written examination	11	346
licensing of those presently qualified	16	348
municipal ordinances for electrical standards	18	348
temporary permits	10	345
unauthorized use of electrician titles	8	345
violations, penalty	20	349
ELECTRONIC DEVICES		
Recording conversations without knowledge of parties	Ch. 228	740
EMINENT DOMAIN		
Date from which interest payable to property owner	Ch. 182	502
ENGINEERS & LAND SURVEYORS		
Bond of board secretary	28	484
EXECUTIONS		
Unsecured promissory note, waiver of statutory exemptions prohibited	Ch. 172	461
EXPLOSIVES		
Fee for storage	8	259

F

FIRE DISTRICTS		
County attorneys as counsel for	Ch. 17	25
Mutual aid agreements with municipalities	Ch. 2	4
FIREMEN AND FIRE DEPARTMENTS		
Pension plan for volunteer firemen	Ch. 118	233
Tax levy for relief association fund	Ch. 24	39
FISCAL NOTES		
Bills in legislature, required	Ch. 53	104

HeinOnline -- 1965 10 1965

	Sec.	Page
FISH AND GAME		
Aquatic insects, taking from state forbidden	Ch. 13	21
Authority to develop recreational resources, federal funds	Ch. 235	755
Bond of director	14	475
Commissioners, bonds of	46	495
Commissioners, compensation	Ch. 238	758
Commissioners, districts, Senate approval of appointments	Ch. 29	47
Definitions, angling or fishing redefined, paddlefish included	Ch. 28	45
Definitions, Canada Lynx removed from fur-bearing list	Ch. 11	18
Director as superintendent of hatcheries, bond	15	475
Dumping garbage on or near recreational areas	Ch. 176	470
Ex-officio fish and game wardens, employees as	Ch. 236	757
Fishing and hunting game birds, license exemptions	Ch. 9	15
Fur-bearing animals, raising as agricultural pursuit	Ch. 25	41
Jurisdiction of state parks, exceptions	Ch. 69	125
Licenses, bear, in all game animal licenses	Ch. 241	761
Nongame hunting regulations, jackrabbits	Ch. 48	95
Nonresident bear licenses	Ch. 239	759
Nonresident hunters, accompanied by licensed resident	Ch. 229	740
Powers and duties of commission, defined	Ch. 173	461
Privately owned and operated shooting preserves	Ch. 265	837
Protection of fishing streams, procedure, policy	Ch. 10	16
Reciprocity agreements with other states for fishing	Ch. 14	21
Special nonresident deer and antelope licenses	Ch. 12	19
FLOOD CONTROL		
Projects authorized	Ch. 272	852
Works included in water conservation purposes	Ch. 163	421
FOOD AND DRUGS		
Economic poison warranties	Ch. 218	712
Packaged commodities regulation	Ch. 160	400
FRONTAGE ROAD		
Defined, maintenance	Ch. 90	176

G

GAMBLING		
Horse racing commission created	Ch. 196	522
GARBAGE		
Dumping on property where public recreation permitted, prohibited	Ch. 176	470
GOVERNOR		
Entering into contracts under Western Interstate Corrections Compact	100	673

H

HAIL INSURANCE, STATE BOARD		
Salary of chairman	Ch. 188	512
HIGHWAY PATROLMEN		
Duties and powers	Ch. 63	119

HeinOnline -- 1965 11 1965

	Sec.	Page
HIGHWAYS AND HIGHWAY DEPARTMENT		
Authority of commission, determination that property taxes paid on land acquired	Ch. 125	290
Bond of engineer	18	480
Bond of members	17	478
Construction and maintenance of streets and highways in or near incorporated municipalities	Ch. 210	688
Damaging of signs or markers, fines, reward	Ch. 184	505
Distribution of construction funds, from primary to secondary system	Ch. 113	226
Dumping garbage prohibited	Ch. 176	470
Dumping refuse unlawful	Ch. 128	301
Eminent domain proceedings, date from which interest payable to property owner	Ch. 182	502
Frontage roads, maintenance	Ch. 90	176
Ports of entry and checking stations, establishment	Ch. 137	312
State parks jurisdiction	Ch. 69	125
See Montana Highway Code		
See Motor Vehicles		
HOMESTEADS		
Value increased	Ch. 266	840
HORSE RACING		
Commission established	Ch. 196	522
HOSPITALS		
See State Board of Health		
HOUSE TRAILERS		
Property tax paid stickers, display of	Ch. 275	868
HOUSEHOLD PETS		
Shelter required	Ch. 131	304
I		
INDUSTRIAL ACCIDENT BOARD		
Services furnished, prosthetic appliances replaced	Ch. 81	152
Transcripts on appeal, furnishing to indigent claimants	Ch. 111	222
INDUSTRIAL DEVELOPMENT		
By cities, towns and counties, Act for	Ch. 51	97
INNKEEPERS		
Penalty for defrauding, mobile home parks and tourist camp grounds	Ch. 219	715
INSECTICIDES		
Economic poison warranties	Ch. 218	712
INSTITUTIONS		
See Department of Institutions	Ch. 199	639
INSURANCE		
Architects, errors and omissions on public building	Ch. 220	716
County officers against liability for loss	Ch. 16	25
Debtor groups, amount and period of time, limitations	Ch. 132	304
Domestic stock company equity securities, insider trading	Ch. 159	397

HeinOnline -- 1965 12 1965

	Sec.	Page
Group accident and sickness, persons over 65	Ch. 61	114
Group health plans, county, city, town share	Ch. 83	154
Insurance written with loans, conditions	2	23
Share of motor vehicle premium tax for police departments	Ch. 261	833
Standard nonforfeiture law, life insurance, industrial policies, mortality table and rate of interest	Ch. 42	81
Tax on net premiums, period extended	Ch. 26	42
Valuation of life insurance policies, additional mortality tables	Ch. 41	75

J

JUDGES

See Courts

JUNKYARDS

Regulation, screening	Ch. 136	308

JURORS

Persons over 70 years of age	Ch. 116	231

L

LABOR AND INDUSTRY

Commissioner, bond	20	480
Payroll bonds required of lessees of restaurants, bars and taverns	Ch. 155	379

LEGISLATIVE ASSEMBLY

Compensation and duties of officers and employees	1	1
Constitutional amendment proposed, representation according to population	Ch. 273	856
Fiscal note on bills	Ch. 53	104
Lobbyists, licenses, deposit of	3	786
Per diem and reimbursement of expenses of members	Ch. 180	501

LIBRARIES

Law, bond of librarian	21	481
State library commission, members, chairman, powers	Ch. 215	707

LIENS

Release where no action taken	Ch. 97	188

LIMITATION OF ACTIONS

Persons permitted to enter lands for recreational purposes	Ch. 138	313

LIQUOR CONTROL BOARD

Bond of administrator	12	475
Bond of board members	11	474
Individual liquor permits, abolished	Ch. 154	368
License transfers, time for published notice	Ch. 145	327
Manufacture of liquor authorized	Ch. 67	122
Members, written records to be kept of samples	Ch. 144	327
Regulations, serially numbered seals on packages	Ch. 43	89

LIVESTOCK

Assessment for taxation, in feeding pens	Ch. 86	167

HeinOnline -- 1965 13 1965

	Sec.	Page
Cattle protective districts, formation	Ch. 91	177
Hide dealers' license, deposit of	4	787
Highways, construction of cattle guards		556
Possession of stolen, presumption of guilt of larceny	Ch. 202	678
Sheep, license fee for protection	Ch. 87	168
Tests for pregnancy or sterility as veterinary medicine	Ch. 191	515
Transportation of, powers of highway patrolmen	Ch. 63	120
LOANS		
Montana Consumer Loan Act, rates of charge, credit life insurance	Ch. 15	22
LOBBYING		
Licenses, deposit of	3	786
LONG-RANGE BUILDING PROGRAM		
Provisions for	Ch. 276	869
LONG-TERM CARE FACILITIES		
Regulation and licensing by board of health	Ch. 162	413
M		
MEMORIALS AND RESOLUTIONS		
See Resolutions		
MILK CONTROL BOARD		
Members, bonds	16	476
MOBILE HOME PARKS		
Penalty for defrauding owner	Ch. 219	715
MONTANA CENTER FOR THE AGED		
See Department of Institutions		
MONTANA CHILDREN'S CENTER		
See Department of Institutions		
MONTANA CIGARETTE SALES ACT		
Enacted	Ch. 258	816
MONTANA CONSUMER LOAN ACT		
Insurance written with loans, conditions	2	23
Maximum rates of charge	1	23
MONTANA COORDINATE SYSTEM		
Adopted	Ch. 232	742
MONTANA HIGHWAY CODE	Ch. 197	527
Acquisition and disposition of property		
by county		602
by state		595
Classification of highways and roads		532
Contracts		
counties and local improvement districts		608
state		607
Control of access		610
County administration		
bridges and ferries, commissioners' responsibility		558
cattle guards, construction		556
county road superintendent		559

HeinOnline -- 1965 14 1965

INDEX

	Sec.	Page
county roads, commissioners' responsibility		553
limitation of expenditures		557
local improvement districts, procedures		561
reseeding of right of way areas		557
road machinery, use in cities or towns		556
subdivision or section lines, highways laid out on		556
weed control		557
width of county roads		556
County finance		
bonds, purposes, procedures		592
registration and other fees		589
suburban railway to pay county for use of bridge		588
tax levies for road and bridge construction		587
Definitions		529
Federal Aid Acts, assent to		533
Legislative intent		528
Lewis and Clark Highway		532
Miscellaneous provisions		
bonds, issued by county commissioners		619
county surveyor, duties		622
definitions		625
ditches overflowing on highway		627
dumping garbage		618
encroachments		617
excavations		616
"Good Roads Day"		616
injuries to highways and trees		616
injuries to milestones, guideposts, trees		627
prosecutions by county attorneys		618
registration fees of motor vehicles		622
roads, ferries and bridges, powers of county commissioners		619
sections repealed		627
water overflowing highways		616
State administration		
accounts and expenditures, payment of claims		539
apportionment of construction funds		543
bridges, construction or reconstruction		542
commission, powers, duties, districts, etc.		535
distribution and use of proceeds of gasoline dealers' license tax		541
districts for apportionment of funds		542
employees, salaries, assignment to counties		540
increases in expenditures in financial districts		546
limitation on expenditures		541
maintenance and control, division of		540
new highway or controlled access facility, recording of plan with counties		538
prosecution for violation of Code		540
secondary highway information		545
seeding along highways		538
state highway engineer		540
toll bridge authority		547
utilities facilities, relocation		538
weight on highways, agreements to study effect of		538
State finance		
additional fees, sales tax, penalty		574
additional tax by municipalities prohibited, exceptions		574
deposit of state highway moneys		574
disposition of fees collected by county treasurer		573
drive-away or tow-away transporters, fees		581
excess weight, penalties		581

HeinOnline -- 1965 15 1965

	Sec.	Page
license not transferable		573
marking of vehicles		578
motor vehicle fees time for payment, expiration, disposition		573
temporary trip permits		579
time for payment of fees by non-residents		579
toll bridges, bond issues		583
MONTANA HOSPITAL, MEDICAL AND RELATED FACILITY SURVEY AND CONSTRUCTION ACT		
Enacted	Ch. 77	136
MONTANA VETERANS' HOME		
See Department of Institutions		
MOTOR CARRIERS		
Applications for Class A, B, and C certificates	22-24	266
MOTOR VEHICLES		
Bond of registrar	22	481
Brake equipment required, fluid standards	Ch. 139	314
Certificate of ownership and transfer of title, filing fee, distribution	27	272
Dealers' licenses, records, definitions	Ch. 256	802
Driver education program	Ch. 226	733
Emergency, operation of sirens and lights	Ch. 250	792
Engine numbers altered, fee for application for special number	31	278
House trailers, property tax paid stickers	Ch. 275	868
License fees, time for payment, half fee after July first	Ch. 224	730
License plates, reflectorized	Ch. 245	770
Lien instruments, filing fee	26	270
Lost certificates of registration or ownership, fee for replacing	28	273
Mobile homes and house trailers, movement as unladen vehicles	Ch. 126	293
National Guard license plates	Ch. 135	307
Operating records, fee for furnishing	17	263
Operator's license, to whom issued, age	Ch. 227	738
Operator's or chauffeur's license, fee for duplicate	16	263
Pedestrians' right of way, school children crossings	Ch. 54	105
Permits for excess size and weight, description of powered or towing vehicle	Ch. 225	730
Proportional fleet registration		
payment of fees and taxes	Ch. 88	170
payment of personal property taxes	Ch. 89	173
Registration fees, disposition, transfer of dealership filing fee	30	273
Renewal of registration, fee	25	269
Right of way at intersections	Ch. 175	469
Right of way, entering highway from approach ramp	Ch. 52	104
Seat belts, required with 1966 models	Ch. 115	230
Tax schedules of heavy, soil conservation work exemptions	Ch. 195	518
Taxation of bodies	Ch. 192	516
Taxes on, distribution by county treasurer	29	273
Trucks and trailers, permits for demonstration purposes	Ch. 36	62
Vehicle equipment safety compact	Ch. 109	209
See Montana Highway Code		
See Highways and Highway Department		
MOTORBOATS		
Gasoline tax for state parks	7	127
Sewage from vessels prohibited, equipment required	Ch. 169	454
Share of gasoline license tax for state parks	1	785
MUNICIPALITIES		
See Cities and Towns		

HeinOnline -- 1965 16 1965

N

	Sec.	Page
NAMES		
Changes decreed in 1963-64		1008
NATIONAL GUARD		
Distinctive license plates	Ch. 135	307
NOTES		
Unsecured promissory, waiver of statutory exemptions prohibited	Ch. 172	461
NURSES		
Professional service corporations, included	Ch. 56	110
Public health, census of handicapped children	Ch. 213	703
Visiting nurse services authorized	Ch. 174	468
NURSING HOMES		
Long-term care facilities, regulation and licensing by state board of health	Ch. 162	413

O

OBSCENE MATTER		
Seizure and destruction	Ch. 230	741
OIL AND GAS		
Leases, report by commission to legislative assembly	2	797
Leases, termination	1	796
Petroleum and liquefied petroleum dealers, licensing and regulation	Ch. 153	364
Re-leasing of state lands, prior lessee	Ch. 104	199
Royalty payments on state lands, rate and time, gas not sold or used off the premises	Ch. 103	198
OPTOMETRY		
Prosecution of violations of Act by county attorney	Ch. 204	680

P

PETROLEUM AND LIQUEFIED PETROLEUM DEALERS		
Licensing and regulation	Ch. 153	364
PHARMACY		
Bond of board secretary	26	483
PHENYLKETONURIA		
Testing of infant children	Ch. 108	209
PIPELINES		
Exempt from filing plats for easements on state lands, consent of purchaser	Ch. 200	674
PLANNING BOARDS		
See City County Planning Boards		
PLUMBERS		
Fixture fee, use of	3	510
Journeyman and master plumbers, licensing	1	508
Journeyman and master plumbers, examination and license fee	Ch. 237	757
Plumbing examiners' board, members	2	509

HeinOnline -- 1965 17 1965

INDEX

	Sec.	Page
PRISONERS		
Payment of medical expenses for hospitalization of	Ch. 179	500
PROBATION OFFICERS		
Salary increase	Ch. 94	184
PUBLIC BUILDING		
Advisory council to controller	Ch. 203	679
Architects and consulting engineers, appointment and approval	Ch. 231	742
Architects' compensation scale, errors and omissions insurance	Ch. 220	716
Architects, time schedule for payment	Ch. 209	687
Design for use by physically handicapped	Ch. 223	721
Long-range building program, provisions for	Ch. 276	869
PUBLIC CONTRACTS		
Bid requirements, work done by inmates of institutions excepted	92	670
PUBLIC EMPLOYEES RETIREMENT SYSTEM		
Board, credit allowance for time in national defense	Ch. 233	746
Death benefit, beneficiary, time within which to make election	Ch. 110	220
Petition for membership of employee of non-participating municipal corporation	Ch. 119	241
Volunteer firemen's pension plan, administration of, reports	Ch. 118	233
PUBLIC HEALTH AND SAFETY		
Air pollution as public nuisance	Ch. 254	799
Autopsies, limitation on right to perform	87	667
Certificates, fees for copies	14	263
Cystic fibrosis, services to children afflicted	Ch. 106	203
Death certificates, filing in county of deceased's residence	Ch. 207	686
Design of public buildings for use of physically handicapped	Ch. 223	721
Fire safety, boarding and nursing homes for aged	Ch. 22	38
Long-term care facilities, regulation and licensing by board of health	Ch. 162	413
Phenylketonuria testing of infant children	Ch. 108	209
Public swimming pools, supervision	Ch. 161	410
Refuse disposal areas, licensing	Ch. 35	59
Regulation of manufacturers and purveyors of food and drink	Ch. 122	282
Venereal diseases, prevention, control and treatment	Ch. 107	204
Visiting nurse services authorized	Ch. 174	468
Water pollution from boats prohibited	Ch. 169	454
Water supplies control by board of health	Ch. 157	392
See State Board of Health		
PUBLIC HEALTH NURSE		
Cooperation in taking census of handicapped children	Ch. 213	703
PUBLIC UTILITIES		
Financing statements, filing	Ch. 76	135
Relocation of facilities		538
PUBLIC WELFARE		
Administrator, submission of budget estimates to budget director	1	800
Aged persons, medical and old age assistance	Ch. 212	692
administration of program	1	692
amount of assistance	3	695
application for assistance	4	695
assistance grants, issuance to recipient and vendor	14	698
board as agency of federal government	12	697
change of residence of persons receiving medical assistance for the aged	8	696
confidential records	9	696
county boards, powers and duties	13	698

HeinOnline -- 1965 18 1965

	Sec.	Page
county share of participation	5	695
county share, vendor medical payments	19	702
eligibility for old age assistance, receiving other aid	18	701
eligibility requirements	2	694
investigation and determination of eligibility	6	696
investigation of applications	20	702
liens not required, recovery from estates	10	696
liens on real property, exceptions, vendor medical payments	15	699
medical aid and hospitalization provided by counties, exceptions	16	700
redetermination of eligibility	7	696
tax levy for poor fund, exceptions	17	701
tax levy for support of poor and indigent, exceptions under Act	11	697
Bond of administrator	30	485
Bonds of board members	29	484
Day care facilities for children, licensing	Ch. 247	779
Dependent and neglected children, state payments for care in licensed private institutions	Ch. 194	517
"Dependent child" defined, who eligible for aid	2	801
Existing laws not repealed	84	666
Reporting of abuse or neglect of children	Ch. 178	498
Silicosis, amount of payments	Ch. 267	841

R

RECORDING

Conversations without knowledge of parties, prohibited	Ch. 228	740

REFERENDUM PROPOSED

Tobacco tax for state buildings	Ch. 264	836

REFUSE DISPOSAL AREAS

Control and licensing	Ch. 35	59

RESOLUTIONS

House Joint Resolutions		
capital construction program, veterans' and pioneer memorial building, consent to		995
elections, forecasting by news media		983
federal disaster insurance program		988
flood protection program		988
Glacier National Park air facility		985
Glasgow Air Force Base, protesting closing of		976
highways, location with greatest public good and least private injury		990
imported meat, quotas and inspection		969
inventory of State moneys held outside state treasury		965
Legislative Council		
study of laws relating to state board of health		966
study of Montana Fire Code		973
study of operation of legislative branch		980
livestock thefts, more stringent application of penalties		974
meat prices, study of by secretary of agriculture		975
Miles City Veterans Administration facility, protesting closing of		971
Montana business corporation laws, committee for study of		982
proclamation, 1965 as year to see Montana, United State sand territories		978
projects not included in general fund budget, consent and payment for		994
railroads, hours of work of employees		968

HeinOnline -- 1965 19 1965

	Sec.	Page
railroads, nationalization of		986
right to work laws, Taft-Hartley Act amendment		989
scenic beauty of Montana, consideration in developing natural resources		979
sugar, protection of domestic beet sugar industry		970
upper Missouri River development, Corps of Engineers' plan		984
Viet Nam Republic, support of United States Assistance		992
Senate Joint Resolutions		
constitutional amendment, apportionment of one house on other than population basis		998, 999
Legislative Council		
inventory of natural resources		997
study of professional and occupational licensing boards		1005
study of retirement systems of policemen and firemen		995
study of tax structure		1002
study of water conservancy districts		1006
railroads, opposition to merger		1001
soil conservation service, enlargement of size of projects		1004
REVISED CODES OF MONTANA		
Replacement volumes, adoption of volumes 6 and 7	Ch. 5	9

S

SCHOOLS AND SCHOOL DISTRICTS		
Boards of trustees, continuity when site of school moved	Ch. 166	429
Bond, agency for surplus property	49	497
Bond of board of education secretary	32	486
Bond of deputy superintendent of public instruction	48	497
Bond of superintendent of public instruction	33	487
Buses		
operation, reserve fund	Ch. 74	132
signal lamps, specifications, operation	Ch. 250	792
Candidates for second and third class district boards, time for filing	Ch. 46	94
Census of handicapped children	Ch. 213	703
Certification of elementary teachers	Ch. 34	56
Community college districts authorized	Ch. 274	857
Creation of districts by consolidation and annexation	Ch. 205	681
Creation of new districts out of others, measurement of distance between residence and schoolhouse	Ch. 171	457
Creation of school district within a school district, non-sectarian child institution	Ch. 105	200
Driver education program	Ch. 226	733
Educational meetings, number attending, expenses	Ch. 79	148
Election of additional trustees, qualified electors	Ch. 214	704
Emergency budgets of school districts and high schools	Ch. 147	329
Failure to attend, juvenile disorderly person, commitment to institutions	88	669
Federal funds, acceptance and use	Ch. 282	892
Foundation program		
changes in budget when in excess of foundation program, restrictions	1	628
common school levy	5	635
distribution of funds, reports required	2	630
distribution of money available to districts, formula for apportionment of county funds	3	632
distribution of state funds, formula	4	634
levy of taxes, basic, additional, permissive levy	6	635
minimum budget for elementary schools	Ch. 93	183

HeinOnline -- 1965 20 1965

	Sec.	Page
High school building districts, period between original division and alteration	Ch. 140	322
High school joint districts, adjacent counties	Ch. 211	690
Investment of moneys	Ch. 32	51
Isolated schools, application and approval	Ch. 117	232
Joint school districts, formation and control	Ch. 141	322
Joint districts with adjoining states	Ch. 240	760
Junior high schools, elections for establishment of	Ch. 262	834
Mentally retarded and physically handicapped children, special education classes	Ch. 96	186
Payments to school districts for children of state employees living at institutions	Ch. 101	196
Persons voting for trustees, registered voters	Ch. 143	326
Reduction in budget by budget board, allowance of additional expense over foundation program	7	637
Right of way, school children crossings	Ch. 54	105
Safety patrols authorized	Ch. 170	456
Social security, employer contribution as first obligation	Ch. 253	798
Teachers' certificates, fee for	32	280
Teachers' certificates, persons who are not citizens	Ch. 242	765
Textbooks, license to sell, fee for	33	281
Transportation for pupils living less than three miles from school	Ch. 249	791
Tuition payments, children attending schools outside of district of residence	Ch. 127	294
Tuition payments, mentally retarded or physically handicapped children, computation	Ch. 142	324
Unifying county high school with school district where located, abolshing county high schools	Ch. 37	63
SECRETARY OF STATE		
Bond of chief deputy and deputy	48	497
Duties, state boards	95	671
SHEEP		
License fee for protection of	Ch. 87	168
SILICOSIS		
Amount of payments	Ch. 267	841
SOCIAL SECURITY		
Costs of administration, deposit of	5	788
Schools, employer contribution as first obligation	Ch. 253	798
SOIL CONSERVATION		
Levies by counties for	Ch. 152	362
Tax exemption of motor vehicles used in	Ch. 195	518
SPECIAL IMPROVEMENT DISTRICTS		
Bonds, time for repayment, facsimile signatures	Ch. 40	71
Exemption for sidewalks, curbs and gutters	Ch. 19	28
Investment of interest and sinking fund moneys	Ch. 45	93
Swimming pools and recreation facilities	Ch. 206	684
STATE AUDITOR		
Bond of deputy	48	497
Fee for storing of explosives	8	259
STATE BOARD OF EQUALIZATION		
Appraisal and assessment under Unit Ownership Act	42	255

HeinOnline -- 1965 21 1965

	Sec.	Page
Store licenses		
application and fees	9	259
expiration and renewal	10	259
retailers subject to act, license fees	11, 12	260
wholesale stores	13	262
STATE BOARD OF EXAMINERS		
Authority to accept donations of federal installations	Ch. 252	798
Consolidation of clerkships	90	669
STATE BOARD OF HEALTH		
Cystic fibrosis, services to children afflicted	Ch. 106	203
Hospital licensing and supervision	Ch. 78	142
advisory council, composition	8	145
advisory council, functions	10	146
definitions, related facilities	1	142
denial or revocation of license, hearing, review	5	144
discrimination forbidden	13	147
injunction to prevent operation without license	12	147
issuance and renewal of licenses	4	143
licensure, required	3	143
operation without license, penalty	11	146
purpose of Act	2	143
rules and regulations of board	6	145
time within which to comply with rules	7	145
Hospital licenses, issuance and renewal, fee	15	263
Montana Hospital, Medical and Related Facility Act	Ch. 77	136
administration	3	138
consideration and forwarding of applications	10	141
construction program	5	139
construction projects, applications	9	141
definitions	2	137
general powers and duties	4	138
inspection of projects	11	141
minimum standards	8	140
moneys for construction and alteration	12	141
state plans, procedure	7	140
survey and planning, application for federal funds, expenditure	6	139
Long-term care facilities, regulation and licensing	Ch. 162	413
Phenylketonuria testing of infant children	Ch. 108	209
Public swimming pools, supervision	Ch. 161	410
Regulation of manufacturers and purveyors of food and drink	Ch. 122	282
Water supplies control	Ch. 157	392
See Public Health and Safety		
STATE BOARD OF LAND COMMISSIONERS		
Acquisition of tract of historic interest	Ch. 70	128
See State Lands		
STATE BOARD OF RAILROAD COMMISSIONERS		
Bonds of members	31	486
STATE BUDGET DIRECTOR		
Fiscal notes on legislative bills, cooperation	Ch. 53	104
STATE CONTROLLER		
Advisory council on public works	Ch. 203	679
Bond of	41	493
See Department of Administration		
STATE DEPARTMENT OF ADMINISTRATION		
See Department of Administration		

HeinOnline -- 1965 22 1965

INDEX

	Sec.	Page
STATE DEPARTMENT OF INSTITUTIONS		
See Department of Institutions		
STATE ENGINEER		
Bond of	40	493
Office abolished	Ch. 280	882
STATE EXAMINER		
Audit of accounts and books of state institutions	91	670
See Banks and Banking		
STATE FIRE MARSHAL		
Bond of	42	494
Inspection of institutions, report to board	93	670
STATE FORESTER		
Bond of	39	493
STATE GOVERNMENT		
Continuity in emergency, constitutional amendment proposed	Ch. 243	766
Particpiation in Economic Opportunity Act of 1964	Ch. 263	834
Support of, 1965-1966 tax levy	Ch. 217	710
STATE HOSPITAL		
See Department of Institutions	Ch. 199	639
STATE INDUSTRIAL SCHOOL		
See Department of Institutions		
STATE LANDS		
Acquisition of tract of historic interest	Ch. 70	128
Assignment of leases, subleases, fee	18	264
Bond of commissioner	37	492
Bond of employees	38	492
State engineer	40	493
Easements authorized in	6	814
Easements over, exemptions from filing plats, pipelines, consent of purchaser	Ch. 200	674
Exchange for lands of United States, conditions	1	810
Fees charged by commissioner	19	264
Filing certified copy of pledge or mortgage, fee	21	266
Leases		
basis other than crop share	2	811
coal mining	5	814
highest and best use	3	812
improvements by lessee allowed	4	813
Oil and gas leases		
re-leasing, prior lessee	Ch. 104	199
report by commission to legislative assembly	2	797
royalty payments, rate and time, gas not sold or used off the premises	Ch. 103	198
termination of	1	796
Portable sawmill fee, deposit of	2	786
Proof of termination of lease or pledge, fee for filing	20	265
Reservation from sale, land bordering lakes and streams	7	814
Sale of land with improvements of lessee	9	816
Sales, terms of payment	8	815
STATE LIBRARY COMMISSION		
Members, terms, chairman, powers	Ch. 215	707

HeinOnline -- 1965 23 1965

	Sec.	Page
STATE PARKS		
Biological station, fish and game jurisdiction	4	126
Connecting roads, highway department authorization	3	126
Fish and game commission, jurisdiction	1	125
Motor boating, gasoline tax	7	127
Rules and regulations, fish and game commission	5	127
Share of gasoline license tax	1	785
Violations and penalties, fish and game commission	6	127
Wayside camps, highway department jurisdiction	2	126
STATE PRISON		
See Department of Institutions		
STATE PULMONARY DISEASE HOSPITAL		
See Department of Institutions		
STATE TRAINING SCHOOL AND HOSPITAL		
See Department of Institutions		
STATE TREASURER		
Bond of deputy	48	497
STATE VOCATIONAL SCHOOL FOR GIRLS		
See Department of Institutions		
STORE LICENSES		
Applications and fees	9	259
Expiration and renewal	10	259
Retailers subject to act, license fees	11, 12	260
Wholesale stores	13	262
SWIMMING POOLS		
Public, supervision by board of health	Ch. 161	410
Special improvement districts for	Ch. 206	684

T

TAXATION		
All purpose mill levy by cities and towns	Ch. 82	153
Certified copies of returns of corporations, cost	Ch. 187	511
Corporations, percentage of net income	Ch. 269	845
Counties, additional four-mill levy	Ch. 18	27
County poor fund, additional levy	Ch. 221	718
Exemptions, institutions of purely public charity	Ch. 85	166
Fire department relief association fund, levy	Ch. 24	39
Gasoline license tax, 1% to state park account	1	785
Gasoline license tax, 1% to state park account	7	127
House trailers, property tax paid stickers	Ch. 275	868
Income tax		
adjusted gross, defined	Ch. 129	301
increased	Ch. 281	891
nonresidents	Ch. 270	848
release of lien or partial discharge of property, when	Ch. 130	303
veterans' bonus exemption	Ch. 4	8
Inheritance		
exemptions	Ch. 244	768
limitation of liens	Ch. 99	193
Irrigation and drainage facilities	Ch. 193	517
Levy for city and county emergencies	Ch. 31	49

HeinOnline -- 1965 24 1965

	Sec.	Page
Levy for classification and appraisal fund	Ch. 23	38
Long-range building program, pledges for	Ch. 276	869
Motor vehicles, exemption where used in soil conservation work	Ch. 195	518
Motor vehicle bodies	Ch. 192	516
Net premiums of insurers, period extended	Ch. 26	42
Nonresident contractors	Ch. 277	875
Property of state held by taxable ownerships	Ch. 39	70
Proportional registration of fleet vehicles		
fees and taxes	Ch. 88	170
personal property taxes	Ch. 89	173
Real property, new classification for recipients of retirement benefits and certain other taxpayers	Ch. 168	450
Support of state government, 1965-1966 tax levy	Ch. 217	710
Time of assessment of property, cattle in feeding pens	Ch. 86	167
TEACHERS' RETIREMENT SYSTEM		
Age of retirement, teachers in University System	Ch. 33	55
Benefits, children of deceased member under eighteen	Ch. 259	826
Bond of teacher's retirement system secretary	34	487
TOURIST CAMP GROUNDS		
Penalty for defrauding owner	Ch. 219	715
TREASURY FUND STRUCTURE		
Fees of certain state departments, adjustment	Ch. 121	255
TRUSTEES		
Payment of annual compensation and final termination commission	Ch. 134	306
TRUSTS		
Compensation of trustees	Ch. 65	121
Retention of securities and property	Ch. 66	122

U

UNEMPLOYMENT COMPENSATION		
Disqualification for benefits, retired persons, securities salesmen	Ch. 84	155
UNIFORM COMMERCIAL CODE		
Financing statements of transmitting utility, filing	Ch. 76	135
UNIVERSITY SYSTEM		
Name changes of units	Ch. 3	7
Regents' powers, revenue-producing facilities at units	Ch. 246	773
Resident status for student tuition and fees, presumptions	Ch. 164	423
Teachers, age of retirement	Ch. 33	55
War orphans' attendance without fees, time extended	Ch. 150	360
UNIT OWNERSHIP ACT	Ch. 120	243
Actions relating to common elements, service of process	38	254
Amendment of declaration to designate person other than one named to receive service of process	39	255
Appraisal and assessment, state board of equalization	42	255
By-laws		
adoption, recording, amendment	20	249
contents	21	249
rules and regulations, compliance, remedy	13	247
Claim for services by association of unit owners	26	251
Common elements		
conveyed with unit	7	246
exemption from liability prohibited	12	247

HeinOnline -- 1965 25 1965

	Sec.	Page
maintenance, repair and replacement	11	246
undivided interest in	6	246
use of	10	246
Common profits and expenses, distribution	8	246
Conveyance, encumbrance of units	4	245
Damage or destruction of property, effect	34	253
Declaration		
approval of county assessor before recording	17	248
by owner	3	245
contents	14	247
recording	18	248
Deed of a unit, contents	22	250
Definitions	2	243
Exclusive ownership and possession of units	5	245
Exemptions from executions and real property taxes	41	255
First conveyance, mortgage and lien, satisfaction or release	23	250
Floor plans, recording with declaration	19	248
Foreclosure, action for unpaid common expenses	27	252
Foreclosure, payment of rental during, bidding in of unit on behalf of association	28	252
Insurance by manager, premiums	31	253
Liens, subsequent to recording, mechanic's or materialman's, release of unit	24	250
Name of property	16	248
Ownership where property removed from Act, liens	35	254
Partition where property removed from Act	36	254
Preliminary declaration before completion of construction	15	248
Purchaser under mortagage sale, prior common expenses	29	252
Records of manager	25	251
Removal of property from Act, consent of lienholders, tax liens	32	253
Removal of property from Act not bar to resubmission	37	254
Renewal or sale, 90% of owners agree	33	253
Repairs and alterations, limitation	9	246
Taxation, each unit as parcel of real property, true cash value	40	255
Voluntary conveyance, grantee liable for unpaid charges	30	252

V

VALIDATING ACTS

Bond validating Act of 1965	Ch. 75	133
Deeds and conveyances defective in execution or acknowledgement	Ch. 123	288
Instruments affecting real property, erroneously executed or acknowledged	Ch. 58	112
Judicial sales of real property	Ch. 57	111
Proceedings and bonds for sanitary and/or storm sewer districts	5	428
Records of court proceedings containing defects affecting real property	Ch. 124	289
Royalty and minerals reservations made by counties	Ch. 59	113
Sales by trustees, executors, administrators and guardians	Ch. 60	113

VEHICLE EQUIPMENT SAFETY COMPACT

Enacted	Ch. 109	209

VENEREAL DISEASES

Prevention, control and treatment	Ch. 107	204

VETERANS

Bonus exemption from income tax	Ch. 4	8

HeinOnline -- 1965 26 1965

	Sec.	Page
VETERINARY MEDICINE		
Bond of board secretary-treasurer	27	483
Defined, tests for pregnancy or sterility of livestock	Ch. 191	515
VITAL STATISTICS		
Certificates, fees for copies	14	263

W

WAR ORPHANS' EDUCATIONAL OPPORTUNITIES		
Time for entrance at university units in certain cases	Ch. 150	360
WATERS AND IRRIGATION		
Area polluting a water course, defined	2	426
Bond of Carey land Act board assistant secretary	47	497
Bond of state engineer	40	493
Flood control projects authorized	Ch. 272	852
Ground water appropriation, time for filing declaration of vested right	Ch. 21	34
Irrigation district commissioners, compensation	Ch. 62	118
Pollution from boats prohibited	Ch. 169	454
Taxation of irrigation and drainage facilities	Ch. 193	517
Water conservation board		
bond of legal counsel	50	498
bond of secretary	43	494
Carey Land Act Board, transferred to	Ch. 280	890
director, office created	Ch. 279	881
membership and compensation	Ch. 278	878
powers and duties, office of state engineer abolished	Ch. 280	882
scope of purposes, value of works of public benefit	Ch. 163	421
Yellowstone Compact, rules and regulations	Ch. 280	887
Water districts, inclusion of land in more than one county, procedures	Ch. 167	432
Water supplies control by state board of health	Ch. 157	392
WEED CONTROL		
Control and extermination supervisors, per diem	Ch. 64	121
Dissolution of control and extermination districts	Ch. 47	94
Embargo against importation of material containing noxious weed seeds	Ch. 44	92
Highways, supervision		557
WEIGHTS AND MEASURES		
Packaged commodities, regulation	Ch. 160	400
WINTER WORK PROGRAMS		
Committees to effect	Ch. 68	124
WORKMEN'S COMPENSATION		
Appeal from order of commission, notice, record, trial	7	359
Employer defined	Ch. 50	97
Independent contractor as legal defense	Ch. 49	96
Injury causing death, compensation for	4	354
Injury producing temporary total disability, compensation for	1	350
Injury producing total disability permanent in character, compensation for	2	351

HeinOnline -- 1965 27 1965

INDEX

	Sec.	Page
Injury or injured defined	6	359
Occupational diseases, asbestosis added	Ch. 95	185
Occupational disease payments, ionizing radiation	Ch. 92	179
Partial disability, compensation for	3	352
Plan 1, minimum assessment under	Ch. 183	504
Services furnished, prosthetic appliances replaced	Ch. 81	152
Specified injuries, compensation for	5	356
Transcripts on appeal, furnishing to indigent claimants	Ch. 111	222

HeinOnline -- 1965 28 1965

INDEX OF APPROPRIATIONS

HeinOnline -- 1965 29 1965

HeinOnline -- 1965 30 1965

INDEX OF APPROPRIATIONS

EXECUTIVE DEPARTMENTS

Page

ABSTRACTERS' BOARD OF EXAMINERS 951

ADJUSTED COMPENSATION DIVISION 949

ADJUTANT GENERAL 916

AERONAUTICS COMMISSION 947
Capital projects 959

AGRICULTURE, DEPARTMENT OF 917
Capital projects 959

ARCHITECTURAL BOARD OF EXAMINERS 951

ATHLETIC COMMISSION 940

ATTORNEY GENERAL 924
Escheated estates 924

AUDITOR, STATE 929

BARBER BOARD OF EXAMINERS 951

BOARD OF EQUALIZATION 944

BOARD OF EXAMINERS 945
State Capital repair 959

BOARD OF HEALTH 948

BUDGET DIRECTOR 912

BUREAU OF MINES AND GEOLOGY 901

CHIROPRACTIC BOARD OF EXAMINERS 951

COSMETOLOGY BOARD OF EXAMINERS 952

DENTAL BOARD OF EXAMINERS 952

DEPARTMENT OF ADMINISTRATION 914
Additional 922

DEPARTMENT OF INSTITUTIONS 916
Capital projects 958

ENGINEER, STATE 945

ENTOMOLOGIST, STATE 912

EXAMINER, STATE 914

FISH AND GAME COMMISSION 941
Capital projects 960
Deficiency 955

FOOD DISTRIBUTORS' BOARD 952

FORESTER, STATE 940

GOVERNOR'S OFFICE 924

GOVERNOR'S MANSION 925

GRASS CONSERVATION COMMISSION 941

HAIL INSURANCE, BOARD OF 941
Deficiency 955

HIGHWAY COMMISSION 948
Capital projects 959
State parks, federal 899
State parks, operation and capital 900

HIGHWAY PATROL 915
Rewards 905

HeinOnline -- 1965 31 1965

INDEX

Page

HISTORICAL SOCIETY 912

INDIAN AFFAIRS, CO-ORDINATOR 941

INDUSTRIAL ACCIDENT BOARD 942

JOINT MERIT SYSTEM 944

LABOR AND INDUSTRY, DEPARTMENT OF 942

LANDS AND INVESTMENTS, COMMISSIONER 912

LIBRARY COMMISSION, STATE 943

LIQUOR CONTROL BOARD 920

LIVESTOCK COMMISSION 915

LIVESTOCK SANITARY BOARD 919

MEDICAL BOARD OF EXAMINERS 952

MILK CONTROL BOARD 939

HIGHWAY PATROL 915

MORTICIAN'S BOARD OF EXAMINERS 952

NURSING, BOARD 952

OIL AND GAS CONSERVATION COMMISSION 944

OPTOMETRY BOARD OF EXAMINERS 952

OSTEOPATHIC BOARD OF EXAMINERS 952

PARDONS, BOARD OF 913

PHARMACY, BOARD OF 953

PLANNING BOARD 912

PLUMBING BOARD OF EXAMINERS 953

PROFESSIONAL ENGINEERS' AND LAND SURVEYORS' BOARD 953

PROJECTS NOT INCLUDED IN GENERAL FUND BUDGET 994

PUBLIC EMPLOYEES' RETIREMENT SYSTEM 939

PUBLIC SCHOOL PAYMENTS FOR CHILDREN OF STATE EMPLOYEES RESIDING ON PROPERTY OF A STATE INSTITUTION 937

PUBLIC SCHOOL STATE EQUALIZATION AID 936
Unexpended balances 937

PUBLIC SCHOOL TRANSPORTATION AID 936

PUBLIC WELFARE DEPARTMENT 920

RAILROAD COMMISSIONERS 925

REGISTRAR OF MOTOR VEHICLES 949

SECRETARY OF STATE 926

SOIL CONSERVATION COMMITTEE 946
Watershed project planning 900

STATE PARKS 921

SUPERINTENDENT OF PUBLIC INSTRUCTION 927
Manpower development 904

TEACHERS' RETIREMENT SYSTEM 942

TREASURER, STATE 927

UNEMPLOYMENT COMPENSATION COMMISSION 914
Manpower development 905

HeinOnline -- 1965 32 1965

Page

VETERANS' AND PIONEER MEMORIAL BUILDING 995

VETERANS' WELFARE COMMISSION 946

VETERINARY MEDICAL BOARD OF EXAMINERS 953

VOCATIONAL REHABILITATION 913

WATER CONSERVATION BOARD 920

WATER WELL CONTRACTORS' BOARD OF EXAMINERS 953

JUDICIAL DEPARTMENTS

ATTORNEYS' EXAMINING BOARD 926

COUNTY ATTORNEYS 950

DISTRICT JUDGES 947
Deficiency 955

LAW COMMISSIONERS 926

LAW LIBRARY 941

SUPREME COURT 926
Deficiency 954

LEGISLATIVE DEPARTMENT

LEGISLATIVE COUNCIL 898
Dues to Council of State Governments 897

THIRTY-NINTH LEGISLATIVE ASSEMBLY
Operation 897
Incidental expense 955
Interim committee on state buildings 958
Reapportionment court appearances 955

STATE INSTITUTIONS

AGRICULTURAL EXPERIMENT STATION AND CO-OPERATIVE AGRICULTURAL EXTENSION SERVICE 908

BOARD OF EDUCATION 910

CENTER FOR THE AGED 932
Capital projects 957

CHILDREN'S CENTER 931
Capital projects 956

DEAF AND BLIND SCHOOL 932
Capital projects 955

INDUSTRIAL SCHOOL 934
Capital projects 956

STATE HOSPITAL 931
Capital projects 957

STATE PRISON 933
Capital projects 956

TRAINING SCHOOL AND HOSPITAL 935
Capital projects 957
Deficiency 954

TUBERCULOSIS SANITARIUM 932
Capital projects 956
Deficiency 954

HeinOnline -- 1965 33 1965

INDEX

	Page
VETERANS' HOME	933
Capital projects	956
Deficiency	954
UNIVERSITY SYSTEM	
Capital projects	963
Eastern Montana College	909
Executive Secretary, Office	910
Montana College of Mineral Science and Technology	908
Montana State University	907
Northern Montana College	909
University of Montana	907
Western Interstate Commission for Higher Education	910
Western Montana College	909
VOCATIONAL SCHOOL FOR GIRLS	934
Capital projects	957

MISCELLANEOUS APPROPRIATIONS

REVISED CODES OF MONTANA	
Replacement volumes and cumulative pocket supplements	899
WALTER E. JENKINS	901

HeinOnline -- 1965 34 1965

CODE INDEX

HeinOnline -- 1965 35 1965

HeinOnline -- 1965 36 1965

CODE INDEX

CODES OF 1947

Title-Sec.		Page
3-103	Amended	474
3-205	Amended	474
3-407	Repealed	498
3-1701 - 1711	Repealed	110
3-1715	Amended	107
3-1717	Amended	788
3-1727	Amended	109
3-2014	Amended	789
3-2016	Amended	790
3-2301	Amended	257
3-2312, 2313	Amended	258
3-2410, 2411	Amended	256
3-2417	Amended	258
3-2466	Amended	257
4-102	Amended	370
4-106	Amended	474
4-110	Amended	475
4-112	Amended	373
4-113	Amended	90, 368
4-116	Amended	374
4-123 - 132	Repealed	379
4-134	Amended	374
4-136, 137	Amended	375
4-138, 139	Amended	376
4-140	Amended	123
4-153	Amended	327
4-157	Repealed	379
4-159	Amended	376
4-162	Repealed	379
4-164	Amended	377
4-165, 166, 168	Repealed	379
4-201, 202	Amended	377
4-234	Amended	378
4-318	Amended	719
4-333	Amended	849
4-407.1	Amended	328
4-501, 502	Amended	378
4-511	Repealed	379
5-201	Amended	12
5-217	Amended	13
5-602	Amended	495
5-603	Amended	475
5-1028	Amended	151
6-101 - 104	Repealed	498
6-325, 326	Amended	472
6-331	Amended	473
8-108	Amended	266
8-109	Amended	267
8-110	Amended	268
10-101, 101.1, 102	Repealed	673
10-105	Repealed	673
10-110 - 114	Repealed	673
10-118 - 121	Repealed	673
10-504	Amended	663
10-506, 507	Amended	662
10-509	Amended	664
10-512	Amended	665
10-524	Amended	517
10-612	Amended	665
10-622	Amended	184
10-632	Amended	666
11-725, 726	Amended	394
11-728	Amended	395
11-729, 731	Amended	396
11-918	Amended	516
11-986	Amended	45
11-1024	Amended	154
11-1901	Amended	6
11-1912	Amended	40
11-2007	Amended	240
11-2010	Amended	4
11-2022	Amended	233
11-2023	Amended	236
11-2024	Amended	237
11-2025	Amended	239
11-2029	Amended	239
11-2202	Amended	684
11-2226	Amended	28
11-3248	Amended	129
11-3523	Amended	6
11-3810	Amended	513
11-3827	Amended	305
11-3905	Amended	67
11-3906	Amended	68
14-509	Amended	686
15-702	Amended	49
15-2103	Amended	110
16-912	Amended	832
16-1001	Amended	25
16-1004	Amended	619
16-1004.1	Repealed	627
16-1015	Amended	27
16-1118	Repealed	627
16-1127, 1128	Repealed	627
16-1180, 1181	Repealed	349
16-1613	Amended	71
16-1620	Amended	72
16-1708	Amended	92
16-1713	Amended	121
16-1723	Amended	94
16-2008	Amended	619
16-2009	Repealed	627
16-2010	Amended	621
16-2201 - 2204	Repealed	627
16-2618	Amended	51
16-2723	Amended	666
16-2818	Amended	501
16-3101	Amended	26
16-3205	Amended	130
16-3302	Amended	622
16-3311, 3312	Repealed	627
16-3410	Amended	667
16-4414 - 4416	Added	426
16-4417	Added	427
16-4418	Added	428
16-4502, 4503	Amended	433
16-4504, 4505	Amended	434
16-4506	Amended	436
16-4507	Amended	437
16-4508	Amended	442
16-4520, 4527	Amended	443
16-4531	Amended	446
16-4532	Amended	447
16-4533	Amended	448
19-107	Amended	10
23-502	Amended	189
23-503	Amended	191
23-505	Amended	192
23-511	Amended	192
23-513, 514	Amended	385
23-807	Amended	386
23-809	Amended	387
23-902	Amended	384
23-929	Amended	387
23-930, 932	Repealed	392
23-1002	Repealed	392
23-1006, 1007	Repealed	392
23-1008	Amended	389
23-1117	Amended	390
23-1611	Amended	390
25-508	Amended	149
25-605	Amended	709
26-102	Amended	47, 495
26-104	Amended	462
26-105	Amended	759
26-111	Amended	475
26-114	Amended	757
26-115	Amended	475
26-201	Amended	18, 46
26-202.1	Amended	15, 761

HeinOnline -- 1965 37 1965

INDEX

Title-Sec.		Page
26-215	Amended	96
27-111	Repealed	288
27-203	Amended	713
27-404	Amended	476
31-110	Amended	119
31-114	Amended	736
31-127	Amended	738
31-138	Amended	263
32-102 - 107	Repealed	627
32-201 - 208	Repealed	627
32-302 - 314	Repealed	627
32-314	Amended	832
32-316	Repealed	627
32-401 - 413	Repealed	627
32-415, 416	Repealed	627
32-501 - 507	Repealed	627
32-509 - 526	Repealed	627
32-601, 602	Repealed	627
32-701 - 711	Repealed	627
32-713 - 715	Repealed	627
32-901 - 905	Repealed	627
32-1002 - 1010	Repealed	627
32-1012 - 1014	Repealed	627
32-1014	Amended	470
32-1016	Repealed	627
32-1127	Amended	731
32-1131	Amended	738
32-1301	Repealed	627
32-1601	Amended	478
32-1602	Amended	480
32-1601 - 1604	Repealed	627
32-1604.1	Repealed	627
32-1605, 1606	Repealed	627
32-1606.1	Repealed	627
32-1607 - 1609	Repealed	627
32-1610	Repealed	628
32-1613, 1614	Repealed	628
32-1615	Amended	290
32-1615, 1615.1	Repealed	628
32-1615.2, 1615.3	Repealed	628
32-1616 - 1618	Repealed	628
32-1620	Repealed	628
32-1622 - 1626	Repealed	628
32-1801 - 1804	Repealed	628
32-1901 - 1915	Repealed	628
32-2001	Repealed	628
32-2002	Amended	176
32-2002 - 2009	Repealed	628
32-2009.1, 2010	Repealed	628
32-2170	Amended	470
32-2173	Amended	104
32-2177	Amended	106
32-2197	Amended	793
32-2198	Amended	794
32-21-132	Amended	792
32-21-143	Repealed	322
33-124	Amended	840
38-101, 102	Repealed	673
38-104	Repealed	673
38-712 - 724	Repealed	673
38-802	Repealed	673
38-804 - 807	Repealed	673
38-810, 811	Repealed	673
38-813 - 816	Repealed	673
38-819	Repealed	673
38-1001 - 1003	Repealed	673
38-1101	Repealed	673
38-1106	Repealed	673
38-1108 - 1112	Repealed	673
40-1727	Amended	480
40-2821	Amended	42
40-3011	Amended	76
40-3831	Amended	81
40-3906(4)	Amended	305
41-1603	Amended	480
43-211 - 214	Repealed	4
43-302, 303	Repealed	4
43-305 - 309	Repealed	4
43-310	Amended	501
43-312 - 317	Repealed	4
43-803	Amended	786
44-127	Amended	707
44-129, 130	Repealed	708
44-404	Amended	481
46-702	Repealed	498
46-1107	Amended	787
46-2102	Amended	169
46-2104	Amended	170
47-210	Amended	23
47-214	Amended	23
53-101	Amended	481, 802
53-102	Amended	804
53-106	Amended	770
53-108	Amended	269
53-110	Amended	270
53-112	Amended	272
53-113	Amended	273
53-117	Amended	273
53-118	Amended	805
53-119.1	Amended	293
53-122	Amended	273, 622
53-133	Amended	808
53-138	Repealed	810
53-139	Amended	278
53-420	Amended	264
53-615	Amended	518
53-615, 615.1	Repealed	628
53-616, 617	Repealed	628
53-618	Amended	730
53-618, 619	Repealed	628
53-621 - 623	Repealed	628
53-628 - 631	Repealed	628
53-634 - 639	Repealed	628
53-643	Repealed	628
53-707	Amended	171
53-712	Amended	172
53-713	Amended	173
59-1106	Amended	788
59-1110	Amended	798
60-201, 202	Repealed	368
61-212	Amended	197
62-301, 304	Amended	125
62-307, 310	Amended	126
62-311, 314	Amended	127
66-114	Amended	716
66-115	Amended	688
66-407	Amended	482
66-512	Amended	14
66-514	Amended	482
66-810	Repealed	498
66-904	Amended	482
66-1315	Amended	680
66-1505	Amended	483
66-2203	Amended	483
66-2209	Amended	515
66-2333	Amended	484
66-2402	Amended	508
66-2403	Amended	509
66-2405	Amended	758
66-2418	Amended	510
67-1912	Amended	306
68-301	Amended	241
68-501	Amended	746
68-1101	Amended	221
69-317, 318	Amended	661
69-512	Amended	686
69-518	Amended	263
69-1101 - 1121	Repealed	208
69-1301	Amended	392
69-1309	Amended	392
69-1314	Amended	393
69-1802	Amended	38
69-1910	Amended	259
69-2308	Amended	667
69-2401 - 2406	Repealed	421
69-2901	Amended	142
69-2902, 2903	Amended	143
69-2905	Amended	143, 263
69-2906	Amended	144
69-2907, 2908	Amended	145

HeinOnline -- 1965 38 1965

INDEX

Title-Sec.		Page
69-2910	Amended	145
69-2910.1	Repealed	146
69-2911, 2915	Amended	146
69-2916, 2917	Amended	147
69-3001	Amended	136
69-3002	Amended	137
69-3003, 3004	Amended	138
69-3006	Repealed	142
69-3007, 3008	Amended	139
69-3009, 3010	Amended	140
69-3012 - 3015	Amended	141
69-3203	Amended	204
69-3505	Amended	454
71-106	Amended	697
71-202	Amended	484
71-203	Amended	485
71-209	Amended	800
71-211	Amended	698
71-216	Amended	698
71-230	Amended	699
71-241	Amended	699
71-308	Amended	700
71-309	Amended	701
71-402	Amended	701
71-405, 406	Amended	702
71-501	Amended	801
71-1003	Amended	841
71-1004	Amended	842
71-1008	Amended	842
72-102	Amended	486
72-144	Repealed	673
75-216	Amended	773
75-218	Amended	775
75-303	Amended	486
75-401	Amended	7
75-402	Amended	8
75-402.1	Repealed	8
75-1301	Amended	487
75-1604	Amended	94
75-1618	Amended	326
75-1630	Amended	295
75-1713.1	Amended	628
75-1716	Amended	329
75-1719	Amended	333
75-1720	Amended	334
75-1805	Amended	458
75-1813	Amended	681
75-1904	Amended	703
75-2501	Amended	765
75-2516	Amended	56
75-2518	Amended	58
75-2521	Amended	280
75-2703	Amended	487
75-2707	Amended	55, 826
75-3002	Amended	669
75-3308	Amended	794
75-3403	Amended	132
75-3503	Amended	281
75-3612	Amended	183
75-3616	Amended	630
75-3617	Amended	232
75-3618	Amended	632
75-3619	Amended	634
75-3706	Amended	635
75-4121 - 4123	Amended	65
75-4124, 4125	Amended	66
75-4126	Amended	67
75-4202	Amended	834
75-4230	Amended	298
75-4401 - 4412	Repealed	868
75-4516.1	Amended	636
75-4518.1	Amended	637
75-4521	Amended	334
75-4524	Amended	338
75-4525	Amended	339
75-4601	Amended	429, 704
75-4607	Amended	322
75-5003	Amended	186, 324
75-5101	Amended	892
76-202	Amended	363
76-203	Repealed	364
76-204	Amended	363
76-208, 209	Amended	363
76-210	Amended	364
77-120	Amended	489
77-909	Amended	360
77-1004	Repealed	498
79-809	Repealed	498
80-201	Repealed	673
80-206, 207	Repealed	673
80-209, 210.1	Repealed	673
80-215	Repealed	673
80-302, 303	Repealed	673
80-308	Repealed	673
80-310, 311	Repealed	673
80-313, 316	Repealed	673
80-320	Repealed	673
80-601 - 608	Repealed	673
80-701 - 705	Repealed	673
80-707	Repealed	673
80-707.1 - 707.5	Repealed	673
80-708 - 715	Repealed	673
80-719, 720	Repealed	673
80-731 - 733	Repealed	673
80-738	Repealed	673
80-740, 740.1	Repealed	674
80-742, 743	Repealed	674
80-745, 746	Repealed	674
80-748	Repealed	674
80-806, 807	Repealed	674
80-809, 811	Repealed	674
80-815 - 824	Repealed	674
80-902, 903	Repealed	674
80-911, 915	Repealed	674
80-918, 919	Repealed	674
80-920 - 929	Repealed	674
80-1001 - 1006	Repealed	674
80-1101	Repealed	674
80-1201 - 1205	Repealed	674
80-1205	Amended	491
80-1206 - 1212	Repealed	674
80-1301 - 1306	Repealed	674
81-201	Amended	492
81-208	Amended	493
81-304	Amended	811
81-402	Amended	811
81-413	Amended	812
81-417	Repealed	816
81-419	Amended	264
81-421	Amended	813
81-426	Amended	266
81-428	Amended	265
81-432	Repealed	816
81-433.1	Repealed	816
81-435	Repealed	816
81-502	Amended	814
81-802	Amended	814
81-803	Amended	674
81-903	Amended	814
81-915	Amended	815
81-919	Amended	816
81-1113	Amended	264
81-1403	Amended	493
81-1502	Amended	786
81-1702.2	Amended	796
81-1704	Amended	198
81-1715	Amended	199
81-2001 - 2005	Repealed	891
81-2006	Repealed	882
81-2007	Repealed	891
81-2008	Repealed	882
81-2009	Amended	882
81-2010	Amended	493
81-2010, 2012	Repealed	882
81-2013	Amended	497
81-2013	Repealed	891
81-2015, 2017	Repealed	891
81-2018	Amended	883
81-2101 - 2121	Repealed	891
81-2123	Repealed	891

HeinOnline -- 1965 39 1965

INDEX

Title-Sec.		Page
81-2125 - 2130	Repealed	891
82-107	Amended	493
82-401	Amended	669, 844
82-404	Repealed	498
82-507	Repealed	498
82-601	Amended	497
82-602	Amended	670
82-1013	Repealed	498
82-1014	Amended	670
82-1103	Repealed	674
82-1131.1	Amended	670
82-1202	Amended	671
82-1230	Amended	494
82-1301	Amended	671
82-1519	Amended	512
82-1907	Repealed	498
82-1914	Amended	661
82-2202	Amended	671
82-2213	Repealed	498
82-2801 - 2803	Repealed	674
82-3001	Amended	883
82-3105	Amended	497
82-3318	Amended	679
82-3319	Amended	742
84-202	Amended	166
84-301	Amended	450
84-302	Amended	453
84-406	Amended	167
84-1501	Amended	846
84-1812(1)	Amended	127, 785
84-1812(1)	Repealed	628
84-1812(2)	Repealed	128, 628, 791
84-1815	Repealed	628
84-1817	Amended	226
84-1817	Repealed	628
84-1831	Amended	625
84-1901	Amended	874
84-2402	Amended	259
84-2404, 2405	Amended	260
84-2406	Amended	261
84-2407	Amended	262
84-4902	Amended	891
84-4905	Amended	302
84-4907	Amended	848
84-4907.1	Amended	9
84-6501	Repealed	527
86-511	Amended	121
87-106	Amended	155
87-148	Amended	159
89-102	Amended	421
89-103	Amended	498, 879
89-118	Amended	494
89-429.8	Amended	39
89-702	Amended	883
89-821, 822	Repealed	628
89-847 - 849	Amended	884
89-851	Amended	885
89-907	Amended	885
89-908	Amended	886
89-909	Amended	887
89-912, 914	Amended	887
89-1201	Amended	887
89-1208	Amended	118
89-2911	Amended	889
89-2913	Amended	35
90-122	Amended	495
90-130, 132	Repealed	409
90-144	Repealed	409
90-301	Repealed	409
91-105	Amended	671
91-106	Amended	672
91-4414	Amended	768
91-4415, 4417	Amended	194
92-106, 107	Repealed	498
92-410	Amended	97
92-418	No change	359
92-438	Amended	96
92-701	Amended	350
92-702	Amended	351
92-703	Amended	352
92-704	Amended	354
92-706	Amended	152
92-709	Amended	356
92-827	Amended	223
92-834	No change	359
92-902	Amended	504
92-1304	Amended	185
92-1311	Amended	179
92-1313	Amended	181
93-901	Amended	753
93-1301	Amended	231
93-1906	Amended	230
93-9913	Amended	502
94-801.2	Amended	737
94-1201	Amended	304
94-2425	Repealed	527
94-3201	Repealed	628
94-3202	Amended	627
94-3550	Amended	715
94-3565	Amended	627
94-3604, 3605	Amended	741
94-3606	Amended	742
94-6913	Amended	224
94-8020	Amended	673
94-8022, 8023	Amended	673
94-8704	Amended	502
94-35-152	Repealed	674
94-35-152.1 - 152.18	Repealed	674
94-35-264	Amended	661

Laws of 1955

THIRTY-FOURTH SESSION

Chap.	Sec.		Page
90	7	Amended	515
182	1	Amended	293
245		Amended	805

Laws of 1957

THIRTY-FIFTH SESSION

Chap.	Sec.		Page
141	1	Amended	360
208		Amended	802
227	1	Amended	8

HeinOnline -- 1965 40 1965

Laws of 1959

THIRTY-SIXTH SESSION

Chap.	Sec.		Page
34		Amended	18
286		Amended	76, 81

Laws of 1961

THIRTY-SEVENTH SESSION

Chap.	Sec.		Page
57	1	Repealed	527
122		Amended	804
149	1	Amended	737
162		Amended	350, 351
162		Amended	352, 354
162		Amended	356, 359
225		Amended	841, 842
237	3	Amended	35
243	5	Amended	731
252	1	Amended	773

Laws of 1963

THIRTY-EIGHTH SESSION

Chap.	Sec.		Page
39		Amended	150
126	5	Amended	785
216		Amended	826
233	1	Repealed	791
252	3	Amended	775
259		Amended	362

HeinOnline -- 1965 41 1965